UNITED STATES DISTRICT COURT DISTRICT OF MASSACHUSETTS

DAVID H. DEAN,)	
Plaintiff,)	CA No. 04-12605-mel
v.)	
LOWE'S HOME CENTERS, INC., Defendant.)	
	J	

AFFIDAVIT OF AMY L. NASH IN SUPPORT OF DEFENDANT'S MOTION FOR SUMMARY JUDGMENT

I, Amy L. Nash, do depose and state as follows:

- 1. I am an attorney at the law firm of Littler Mendelson, P.C., One International Place, Suite 2700, Boston, Massachusetts 02110. Throughout this Affidavit, I refer to Lowe's Home Centers, Inc. as "Lowe's" or "the Company."
- Attached hereto as Exhibit A is a true and accurate copy of the deposition 2. of plaintiff David H. Dean and selected exhibits thereto, which was taken on March 10, 2005 during discovery in this matter.
- 3. Attached hereto as Exhibit B is a true and accurate copy of the deposition of Robert Estes, which was taken on April 29, 2005 during discovery in this matter.
- 4. Attached hereto as Exhibit C is a true and accurate copy of an Employee Performance Report for Daniel Puccio, dated November 9, 2001. This document, which bears the Bates number L0026, was produced during discovery in this matter.
- 5. Attached hereto as Exhibit D is a true and accurate copy of an Online Personnel Data Change Form for David Dean. This document, which bears the Bates number L0001, was produced during discovery in this matter.

6. Attached hereto as <u>Exhibit E</u> are true and accurate copies of Lowe's Incident Reports, dated November 8 and November 9, 2001. These documents, which bear the Bates numbers L0029 through L0033, were produced during discovery in this matter.

SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY ON THIS & DAY OF JUNE 2005.

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                   UNITED STATES DISTRICT COURT
                 FOR THE DISTRICT OF MASSACHUSETTS
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  6
      DAVID H. DEAN,
                            Plaintiff,
  7
                                            Civil Action
             vs.
  8
                                            No. 04-12605-MEL
      LOWE'S HOME CENTERS, INC.,
  9
                           Defendant.
 10
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 12
13
                     DEPOSITION OF DAVID H. DEAN, a witness
      called on behalf of the Defendant, taken pursuant to
      the applicable provisions of the Federal Rules of
14
      Civil Procedure before Cynthia A. Powers, Shorthand
      Reporter and Notary Public in and for the
15
     Commonwealth of Massachusetts, at the law offices of
     Littler Mendelson, P.C., One International Place,
16
     Suite 2700, Boston, Massachusetts, on Thursday,
     March 10, 2005, commencing at 10:10 a.m.
17
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20
21
22
                      KACZYNSKI REPORTING
23
                  72 Chandler Street, Suite 3
                  Boston, Massachusetts 02116
24
                        (617) 426-6060
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	Page	Ι.	Page 4
1	APPEARANCES:	1	PROCEEDINGS
2	ROBERT K. RAINER, P.C. Daniel C. Federico, Esquire	2	· · · · · · · · · · · · · · · · · · ·
13	60 VFW Parkway	3	stipulations, I suggest that we reserve all
1	Revere, Massachusetts 02151	4	objections to the time of trial and motions to strike
4	(781) 289-7900	5	and that the only exception be with respect to
١.	Representing the Plaintiff	6	objections as to the form of the question. I further
5	LTTTLER MENDELSON, P.C.	7	suggest that the witness have an opportunity for
6	David C. Casey, Esquire	8	thirty days after your receipt of a copy of the
1	Amy L. Nash, Esquire	9	transcript to review and make any changes he thinks
7	One International Place, Suite 2700	10	necessary and then to sign under the penalties of
8	Boston, Massachusetts 02110 (617) 378-6000	111	perjury only, which will obviate the need for his
۱ °	Representing the Defendant	12	signing before a notary public, and that if he
9	•	13	
10		14	your receipt his opportunity will be deemed waived.
11 12		15	Is that acceptable?
13		16	MR. FEDERICO: That is acceptable.
14		17	DAVID H. DEAN,
15		18	will will be will by
16 17		19	having been satisfactorily identified
18		20	and duly sworn by the Notary Public,
19		21	was examined and testified as follows:
20 21		22	DIRECT EXAMINATION
22		23	BY MR. CASEY:
23		24	Q. Good morning, Mr. Dean.
24		127	Q. Good Morning, Fire Death.
1	Page 3	j i	Page 5
1	Page 3	1	Page 5 A. Good morning, sir.
1	I N D E X Examination by: Direct Cross Redirect Recross	1 2	A. Good morning, sir.
2	I N D E X Examination by: Direct Cross Redirect Recross Mr. Casey 4 Afternoon Session 88	2	A. Good morning, sir.Q. My name is David Casey. I am with the
1 2 3	INDEX Examination by: Direct Cross Redirect Recross Mr. Casey 4 Afternoon Session 88 EXHIBITS Exhibit Page	2	 A. Good morning, sir. Q. My name is David Casey. I am with the law firm Littler Mendelson. I represent Lowe's.
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2 3 4 5	INDEX Examination by: Direct Cross Redirect Recross Mr. Casey 4 Afternoon Session 88 EXHIBITS Exhibit Page 1 Plaintiff's Answers to First 30 Set of Interrogatories Propounded by the Defendant	2	A. Good morning, sir. Q. My name is David Casey. I am with the law firm Littler Mendelson. I represent Lowe's. A. Yes. Q. And I'm going to be asking you a
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Is that agreeable? Q.

A. Yes.

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- Along the same lines I want to Q. emphasize, and I cannot emphasize too strongly, that this is a process about trying to understand your thoughtful, considered, careful testimony. This is not about trying to trick or intimidate or harass or confuse you. I want you to understand that and the following comments: If you get tired, if you lose your concentration, if you get upset, if you get confused, if you need to take a break or clear your mind or for any reason are having difficulty answering any -- I underscore "any" -- of my questions, I want to you tell me and we'll take a break.
 - Α. All right.
 - Okay? Q.
 - Α. Yep.
- Finally, before -- and you're doing a good job on this point -- before you even begin to say anything in response to any of my questions, please wait until you're absolutely certain that I've finished my question, okay? And there are several reasons for that. First, the last word in a question

Page 8 Page 6 case may be, so that at the end of the day you will

have heard and understood each of my questions and

you will have been certain to reflect carefully on them and provide me with your very best answer. Is that agreeable?

- A. Yes, sir.
- Q. Great. Now, are you under any medication today?
 - A. No, I just have my inhaler with me.
- O. I understand you have asthma. When 10 you make reference to your inhaler, is that what you 11 are referring to? 12
 - A. My Albuterol, that's all the only medication I'm under right how.
- Can you spell that medication for the 15 16 record?
 - A. Spell "medication"?
 - O. Albuterol.
- 19 A. Oh, ALBUTEROL, I guess.
- Q. And have you had any -- and I 20 apologize in advance for asking this question, but I 21 22 really need to -- have you had any alcohol this 23 morning or are you under the influence of any illegal
- 24 drugs?

can fundamentally alter its meaning, and I don't want you to think you know what I'm asking you before I've completed my question, understand?

- A. Yes.
- O. Second, if you try to answer my question before I've got it out, you may not be reflecting and carefully considering your answers, and I want your very carefully considered testimony and only your very carefully considered testimony today; agreed?
 - A. Yes, sir.
- Q. Finally, as terrific as Cindy is, it's hard for her to take down two people who are speaking at the same time.
 - A. Okay.
- Q. So again, I'm going to be asking you a bunch of questions; I want you to take your time with 17 every one of them; I want you to wait until you're certain I've finished the question before you even 19 begin to answer; and if at any time you don't 20 21 understand or hear a question or you're losing your 22 concentration or focus for any reason, I want you to tell me immediately so that you can take a break, clear your head, regain your composure, whatever the

Α.

- As far as you know, there's nothing Q. whatsoever that would adversely affect your ability to hear and understand and respond carefully and thoughtfully to my questions today?
 - A. No, sir.
 - Q. Is that correct?
 - A. Oh, that's correct.
 - Q. Have you ever been deposed before?
 - A. I don't understand that question.
- Have you ever been in a process like 11 this where a lawyer asked you questions under oath? 12
 - Oh, no, sir. A.
 - Have you ever been involved in litigation of any kind before?
 - I guess, yeah. Α.
- What litigation have you been involved 17 18 in?
 - A. I was in a car accident and my insurance company went after the person that was involved in the accident. I had to sit down and talk to their people, I guess, and that was pretty much it.
 - Were you a party to that lawsuit, or

Page 9

1		т	
	Page 10	1 .	Page 12
1	was there a lawsuit?	1	whom you received this restraining order?
2	A. I was the victim. I was hit. I was	2	A. Her name is Tabitha Murkison.
3	in an automobile accident.	3	Q. Spell the last name as best you can?
4	Q. When did that happen?	4	A. MURKISON.
5	A. I'd say '96 maybe.	5	Q. When did you obtain that restraining
6	Q. Did you receive any money as a result	6	order?
7	of that accident and the litigation associated with	7	A. I'd say it was around between
8	it?	8	2000-2001, I guess.
9	A. Yes.	9	Q. Have any restraining orders ever been
10	Q. How much?	10	taken out as against you?
11	A. There was a settlement for, I guess,	11	A. No.
12	maybe ten thousand dollars or something.	12	
13	Q. What lawyer, if any, represented you	13 14	kind of criminal or civil matter involving a court?
14	in that matter?	15	A. Are you asking me if I have a record?Q. Have you ever been arrested?
15	A. Rosencranz.Q. Is that the last name?	16	Q. Have you ever been arrested?A. Yes.
16		17	Q. Have you ever been convicted or pled
17	A. Rosencranz, that's the only name I can remember.	18	guilty or no contest of any kind to any
18	Q. And what city or town did that lawyer	19	A. No.
20	work out of?	20	Q criminal charge?
21	A. Boston, here.	21	A. No.
22	Q. Do you recall what county the lawsuit	22	Q. For what have you been arrested?
23	was filed in, whether it was Middlesex or Suffolk or	23	A. Shoplifting.
24	the like?	24	Q. On how many occasions have you been
	are me.		, , , , , , , , , , , , , , , , , , , ,
	Page 11	!	Page 13
1	 A. What is this county here, Suffolk 	1	supplied for any suites or alloyed suites?
			arrested for any crime or alleged crime?
2	County, I guess.	2	A. You know, um, in my past, coming from
2	Q. Where did you live at the time of this	2	A. You know, um, in my past, coming from the area where I come from, there was a lot of
3 4	Q. Where did you live at the time of this car accident?	3 4	A. You know, um, in my past, coming from the area where I come from, there was a lot of incidents, there was numerous incidents.
3	Q. Where did you live at the time of this car accident? A. In Lynn.	3	A. You know, um, in my past, coming from the area where I come from, there was a lot of incidents, there was numerous incidents. Q. And for what alleged crimes were you
3 4 5 6	Q. Where did you live at the time of this car accident?A. In Lynn.Q. Okay. Did you ever actually go into a	3 4 5 6	A. You know, um, in my past, coming from the area where I come from, there was a lot of incidents, there was numerous incidents. Q. And for what alleged crimes were you arrested, other than shoplifting?
3 4 5 6 7	Q. Where did you live at the time of this car accident? A. In Lynn. Q. Okay. Did you ever actually go into a courtroom?	3 4 5 6 7	A. You know, um, in my past, coming from the area where I come from, there was a lot of incidents, there was numerous incidents. Q. And for what alleged crimes were you arrested, other than shoplifting? A. Assault and battery, possession of a
3 4 5 6 7 8	Q. Where did you live at the time of this car accident? A. In Lynn. Q. Okay. Did you ever actually go into a courtroom? A. No.	3 4 5 6 7 8	A. You know, um, in my past, coming from the area where I come from, there was a lot of incidents, there was numerous incidents. Q. And for what alleged crimes were you arrested, other than shoplifting? A. Assault and battery, possession of a Class B substance, that's it pretty much.
3 4 5 6 7 8 9	Q. Where did you live at the time of this car accident? A. In Lynn. Q. Okay. Did you ever actually go into a courtroom? A. No. Q. Other than the litigation associated	3 4 5 6 7 8 9	A. You know, um, in my past, coming from the area where I come from, there was a lot of incidents, there was numerous incidents. Q. And for what alleged crimes were you arrested, other than shoplifting? A. Assault and battery, possession of a Class B substance, that's it pretty much. Q. Do you remember what the Class B
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3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. Where did you live at the time of this car accident? A. In Lynn. Q. Okay. Did you ever actually go into a courtroom? A. No. Q. Other than the litigation associated with the car accident, have you had any other involvement with courts or the law; and by that I mean have you been divorced, have you been involved in restraining orders, have you been involved in any criminal matters or the like? A. I don't understand that question. You know, I've had, you know, I've had a restraining order where I've taken out on a young lady, you know, because she was harassing me. Q. In what court? A. That would be in Lynn court, Essex	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. You know, um, in my past, coming from the area where I come from, there was a lot of incidents, there was numerous incidents. Q. And for what alleged crimes were you arrested, other than shoplifting? A. Assault and battery, possession of a Class B substance, that's it pretty much. Q. Do you remember what the Class B substance was? A. Marijuana. Q. And it's your testimony that you were never convicted of any of these crimes? A. No. Q. And you never pled guilty or no contest or agreed to a continuance without a finding; is that correct or not correct? A. Yes, correct. Q. What's your date of birth? A. July 17, 1954.
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Where did you live at the time of this car accident? A. In Lynn. Q. Okay. Did you ever actually go into a courtroom? A. No. Q. Other than the litigation associated with the car accident, have you had any other involvement with courts or the law; and by that I mean have you been divorced, have you been involved in restraining orders, have you been involved in any criminal matters or the like? A. I don't understand that question. You know, I've had, you know, I've had a restraining order where I've taken out on a young lady, you know, because she was harassing me. Q. In what court? A. That would be in Lynn court, Essex County, I guess.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. You know, um, in my past, coming from the area where I come from, there was a lot of incidents, there was numerous incidents. Q. And for what alleged crimes were you arrested, other than shoplifting? A. Assault and battery, possession of a Class B substance, that's it pretty much. Q. Do you remember what the Class B substance was? A. Marijuana. Q. And it's your testimony that you were never convicted of any of these crimes? A. No. Q. And you never pled guilty or no contest or agreed to a continuance without a finding; is that correct or not correct? A. Yes, correct. Q. What's your date of birth? A. July 17, 1954. Q. And what's your Social Security
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Where did you live at the time of this car accident? A. In Lynn. Q. Okay. Did you ever actually go into a courtroom? A. No. Q. Other than the litigation associated with the car accident, have you had any other involvement with courts or the law; and by that I mean have you been divorced, have you been involved in restraining orders, have you been involved in any criminal matters or the like? A. I don't understand that question. You know, I've had, you know, I've had a restraining order where I've taken out on a young lady, you know, because she was harassing me. Q. In what court? A. That would be in Lynn court, Essex County, I guess. Q. Lynn district court or superior court?	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. You know, um, in my past, coming from the area where I come from, there was a lot of incidents, there was numerous incidents. Q. And for what alleged crimes were you arrested, other than shoplifting? A. Assault and battery, possession of a Class B substance, that's it pretty much. Q. Do you remember what the Class B substance was? A. Marijuana. Q. And it's your testimony that you were never convicted of any of these crimes? A. No. Q. And you never pled guilty or no contest or agreed to a continuance without a finding; is that correct or not correct? A. Yes, correct. Q. What's your date of birth? A. July 17, 1954. Q. And what's your Social Security number?
3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Where did you live at the time of this car accident? A. In Lynn. Q. Okay. Did you ever actually go into a courtroom? A. No. Q. Other than the litigation associated with the car accident, have you had any other involvement with courts or the law; and by that I mean have you been divorced, have you been involved in restraining orders, have you been involved in any criminal matters or the like? A. I don't understand that question. You know, I've had, you know, I've had a restraining order where I've taken out on a young lady, you know, because she was harassing me. Q. In what court? A. That would be in Lynn court, Essex County, I guess. Q. Lynn district court or superior court? A. Lynn district.	3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. You know, um, in my past, coming from the area where I come from, there was a lot of incidents, there was numerous incidents. Q. And for what alleged crimes were you arrested, other than shoplifting? A. Assault and battery, possession of a Class B substance, that's it pretty much. Q. Do you remember what the Class B substance was? A. Marijuana. Q. And it's your testimony that you were never convicted of any of these crimes? A. No. Q. And you never pled guilty or no contest or agreed to a continuance without a finding; is that correct or not correct? A. Yes, correct. Q. What's your date of birth? A. July 17, 1954. Q. And what's your Social Security

		T		D
1	Page 1 than David Dean?	4 ;	ı Q.	Page 16 Last name?
1 2	A. I did use an alias one time, and I		_	_
3	think it was David Brown, I think.	3		
4	Q. When was that?	2	•	•
5	A. Somewhere back in the eighties. I	5		The second secon
6	can't quite remember.	6	•	
7	Q. For what reason?	1 7		•
8	A. Possession of a Class B substance.	8	•	have you been separated since 1985 or '6?
9	Q. Was any kind of guilty finding or no	9	•	
10	contest plea or continuance without a finding entere	1 -		•
11	as against David Brown relative to that charge of	11		One son. I have two children. By
12	possession of a Class B substance?	12		•
13	A. There was no there was a continuing	13	•	Two children total, one by Tanya Dean?
14	without a finding.	14	-	Yes, that's my son, David Jr.
15	Q. In what state?	15		How old is he?
16	A. Massachusetts.	16	_	He's 26.
17	Q. County?	17		Where does he live?
18	A. Suffolk.	18	•	In Boston.
19	Q. Do you recall what Social Security	19		And your other child?
20	number, if any, you provided at that time?	20	_	Her name is Dara.
21	A. Same one.	21	Q.	Dara?
22	Q. Did you review any documents or papers			Dara, D A R A.
23	or any material or evidence before coming to testify	23	Q.	How old is she?
24	today?	24	Ä.	I believe 31.
<u></u>		↓_		
1	Page 15			Page 17
1	A. No.	1	Q.	Where does she live?
2	Q. Other than with counsel, did you speak	2	Α.	In Boston.
3	with anybody	3	Q.	Do you see David Jr.?
4	A. No.	4	Α.	All the time.
5	Q about this matter in preparation	5	Q.	Do you see Dara?
6	for your deposition today?	6	Α.	All the time.
7	A. No.	7	Q.	Where does David Jr. live, what
8	Q. What is your full name?	8	street?	Todayah layana tha taga a
9	A. David Harden, H A R D E N, Dean.	9	Α.	I don't know their streets.
10	Q. What's your address?	10	Q.	What's his telephone number?
11	A. 36 Sagamore Street, Apartment 1, Lynn,	11	A.	His home number is (617) 427-2372 and
12	Mass.	12		mber is 480, no, (617) 480-4504.
13	Q. How long have you lived there?	13	Q.	Where does Dara live?
14	A. Just over a year now.	14 15	A. know the s	I don't I mean, I know, but I don't
15	Q. With whom, if anyone, do you live?			
16	A. My girlfriend.	16	Q.	In what section of the city?
17	Q. Her name?	17	A. Station.	Between Andrew Station and Jackson
18	A. Marilyn Cox, C O X.	18	_	What section of the site days David
19	Q. Are you married?	19 20	Q, live in?	What section of the city does David
20 ⁻	A. Yes. Q. Are you separated from your wife?	20 21	live in?	In the Delhi Street area.
21		22		
22 23		23	Q.	What is Dara's telephone number?
23 24	Q. Her name? A. Tanya.	23 24		That I don't know, I mean, because she rent number; like every time I see her she
47	A. Taliya.	4. T	nas a uniel	che number, like every time I see her she

		Page 1	8	Page 2
1	has a dif	ferent phone number or different cell	1	•
2	number.		2	
3	Q.		3	
4	A.	About two weeks ago.	4	
5	Q.		5	
6	Α.	No.	1 7	
7	Q.	You use your home number?	8	
8	Α.	Yes. What's your home telephone number?	9	
9	Q.	(781) 592-6563.	10	
10	A. Q.	Six-five-six	111	
12	Q. A.	Three.	12	
13	Q.		13	•
14	Q. A.	Yes.	14	Q. How long did you work with W&W
15	Q.	How long have you had that telephone	15	5 Construction?
16	number?		16	A. I'd say for about three years.
17	Α.	Maybe twelve years.	17	Q. So sometime in, roughly speaking, the
18	Q.	What's your educational background?	18	
19	Did you g	graduate from high school?	19	
20	Α.	Yes, sir.	20	•
21	Q.	When?	21	- • • • • • • • • • • • • • • • • • • •
22	Α.	In 1971, '72.	22	•
23	Q.	What high school?	23	, ,
24	Α.	It used to be a high school here in	24	there, and then there was a lot of time, you know,
			1	
		Page 16	-	Page 2
1	downtown	Page 19	Ι.	Page 2: there was no work for me.
1 2		Boston called Don Bosco Tech.	1	there was no work for me.
2	Q.	Boston called Don Bosco Tech. Have you taken any courses in college	1 2	there was no work for me. Q. Why did you leave in September 2004?
2	Q. or post hig	Boston called Don Bosco Tech. Have you taken any courses in college h school?	1	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal
2	Q. or post hig A.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts	1 2 3	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a
2 3 4	Q. or post hig A. in Amherst	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco	1 2 3 4	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from
2 3 4 5	Q. or post hig A. in Amherst	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts	1 2 3 4 5	Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to
2 3 4 5 6	Q. or post hig A. in Amherst on an acad	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball.	1 2 3 4 5 6 7 8	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or
2 3 4 5 6 7	Q. or post hig A. in Amherst on an acad Q.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball. Did you graduate from UMass?	1 2 3 4 5 6 7 8 9	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was
2 3 4 5 6 7 8	Q. or post hig A. in Amherst on an acad Q. A.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball.	1 2 3 4 5 6 7 8 9	Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work?
2 3 4 5 6 7 8 9 10	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball. Did you graduate from UMass? I had to withdraw in my sophomore	1 2 3 4 5 6 7 8 9 10	Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes.
2 3 4 5 6 7 8 9 10 11	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball. Did you graduate from UMass? I had to withdraw in my sophomore Why?	1 2 3 4 5 6 7 8 9 10 11 12	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely
2 3 4 5 6 7 8 9 10 11 12 13	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time,	1 2 3 4 5 6 7 8 9 10 11 12 13	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of
2 3 4 5 6 7 8 9 10 11 12 13 14	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A. and my date	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time, digot kind of sick, and I needed to be home	1 2 3 4 5 6 7 8 9 10 11 12 13 14	Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of the year?
2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A. and my dawith my mo	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time, d got kind of sick, and I needed to be home om.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of the year? A. Well, it's seasonal like.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A. and my dawith my mo Q.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time, digot kind of sick, and I needed to be home om. Did you withdraw for any other reason?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of the year? A. Well, it's seasonal like. Q. And I understand and does it typically
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A. and my dawith my mo Q. A.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketbail. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time, d got kind of sick, and I needed to be home om. Did you withdraw for any other reason? No.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of the year? A. Well, it's seasonal like. Q. And I understand and does it typically adversely affect you in the fall?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A. and my dad with my mo Q. A.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time, digot kind of sick, and I needed to be home om. Did you withdraw for any other reason? No. Excuse me. Can I get some more water?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of the year? A. Well, it's seasonal like. Q. And I understand and does it typically adversely affect you in the fall? A. Yes. Just like right now, going from
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A. and my dat with my mo Q. A. E. Q. A.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketball. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time, d got kind of sick, and I needed to be home om. Did you withdraw for any other reason? No. Excuse me. Can I get some more water? Sure.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of the year? A. Well, it's seasonal like. Q. And I understand and does it typically adversely affect you in the fall? A. Yes. Just like right now, going from the winter to the spring, I get that same, you know,
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A. and my dad with my mo Q. A. E. Q. E. A. E. Q. E. A. E. Q. E. E. Q. E. E. Q. E. E. Q. E.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketbail. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time, digot kind of sick, and I needed to be home om. Did you withdraw for any other reason? No. Excuse me. Can I get some more water? Sure. Are you currently employed?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	there was no work for me. Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of the year? A. Well, it's seasonal like. Q. And I understand and does it typically adversely affect you in the fall? A. Yes. Just like right now, going from the winter to the spring, I get that same, you know, problem.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A. and my dad with my mo Q. A. E. Q. A.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketbail. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time, digot kind of sick, and I needed to be home om. Did you withdraw for any other reason? No. Excuse me. Can I get some more water? Sure. Are you currently employed? No.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of the year? A. Well, it's seasonal like. Q. And I understand and does it typically adversely affect you in the fall? A. Yes. Just like right now, going from the winter to the spring, I get that same, you know, problem. Q. Are you receiving any kind of
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A. and my dad with my mo Q. A. Q. A. A. Q.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketbail. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time, digot kind of sick, and I needed to be home om. Did you withdraw for any other reason? No. Excuse me. Can I get some more water? Sure. Are you currently employed? No. When last were you employed?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of the year? A. Well, it's seasonal like. Q. And I understand and does it typically adversely affect you in the fall? A. Yes. Just like right now, going from the winter to the spring, I get that same, you know, problem. Q. Are you receiving any kind of disability benefits either from a private insurance
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. or post hig A. in Amherst on an acad Q. A. Q. A. year. Q. A. and my dat with my mo Q. A. G. A. Q. A.	Boston called Don Bosco Tech. Have you taken any courses in college in school? I went to University of Massachusetts right after my graduation from Don Bosco demic and sports scholarship there. What sport? Basketbail. Did you graduate from UMass? I had to withdraw in my sophomore Why? My parents were elderly at the time, digot kind of sick, and I needed to be home om. Did you withdraw for any other reason? No. Excuse me. Can I get some more water? Sure. Are you currently employed? No.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	Q. Why did you leave in September 2004? A. Well, my asthma condition is seasonal and, you know, I usually get congested by just a change of the weather and, like, when it goes from the fall to the winter my condition gets bad. Q. So do I understand your testimony to be that you left work with W&W Construction in or about September of 2004 because your asthma was making it impossible for you to continue to work? A. Yes. Q. And does asthma frequently adversely affect you and your ability to work in the fall of the year? A. Well, it's seasonal like. Q. And I understand and does it typically adversely affect you in the fall? A. Yes. Just like right now, going from the winter to the spring, I get that same, you know, problem. Q. Are you receiving any kind of

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	. ^	Page		Page 2 L Q. First time you ever saw him?
	1 Q			2 A. Yesterday.
	2 A.			
		nis property for him.		
1 4	-		5	
5			6	
6	-			
7		MAZEREAS, I think. I'm not	7	,,,
8		Tour board have been daine and	8 6	
9	•		d 9 10	• , ,
10	•	Peter Mazereas?	- 1	,
11		I've known Peter for I'd say over	11	,
12	,		12	
13	•	-	13	, ,
14		even years?	14	, , , , , , , , , , , , , , , , , , , ,
15		Off and on.	15	
16		For how long have you been living in	16	
17			17	to the Lynn Community Health Center into their
18		One year, a little over one year.	18	walk-ins for so long and then I guess one of the
19	_	And prior to your current address	19	, , , , , , , , , , , , , , , , , , , ,
20		ere you living?	20	,,,, , , , , , , , , , , , , , , , , ,
21		I lived at 26 Broad Street in Lynn.	21	worse, you're falling apart. I guess he took it upon
22	-	For how long?	22	himself to file the information that he had in to
23		I lived there for I'd say maybe close	23	Mass Health.
24	to seven,	eight years.	24	Q. And who helped you with that, what
		Page 2	3	Page 25
1	Q.	How long have you lived with Marilyn	1	doctor?
2	Cox?	- , ,	2	 A. I don't remember the doctor's name. I
 3	A.	I've been living with Marilyn for now	3	really don't know his name.
4	I'd say th	e last three years.	4	 Q. But he's affiliated with Lynn
5	Q.	Do you have a good relationship with	5	Community Health Center?
6	her?		6	A. Yes, sir.
7	A.	Very good.	7	Q. Is Mass Health some sort of government
8	Q.	Has it been bad at all in the last two	8	sponsored health insurance program?
9	years?		9	 A. I might think it's state funded. I'm
10	Α.	I don't understand.	10	not sure. I know they help people who are dire
11	Q.	Has your relationship been adversely	11	straits, who don't have insurance, or you know. This
12	affected w	ith her in the last two years?	12	doctor here, Dr. Alpert, he also gave me directions
13	A.	Oh, no, no, no. I thank God for her.	13	on how I can go and get, you know, like a lot of
14	Q.	Are you currently treating with any	14	benefits that fits people like me who don't have
15	physicians	or mental health clinicians or any other	15	anything. He says you can go get fuel assistance and
16	kind of hea	althcare provider?	16	food stamps. And I said, cool, I could use it.
17	A.	Yes, I am. His name is David Joseph.	17	Q. What was the reason why you decided to
18	He's my cli	nician. He's helping me with my stress	18	see David Joseph Alpert?
19	and my co		19	A. Because you know, there's a lot of
20	Q.	David Joseph Alpert?	20	different reasons I just needed somebody to talk
21	Ā.	Yes.	21	to, you know, somebody who I didn't know, somebody
Z 1	_	When first did you see David Joseph		who would maybe I don't know. I just needed
22	Q.	which has did you see David Joseph		who would maybe as I don't know. I just needed
	Q. Alpert?	when hist did you see David Joseph		somebody to talk to.
22	Alpert?	Yesterday.		

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- About a lot of things.
- Q. Tell me.

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- A. Well, you know, it's hard, you know,
- 4 it's just, you know, you know, just a lot of things.
- 5 Like, you know, I wanted to stop smoking cigarettes
- because the doctors are telling me it's killing me. 6
- 7 He says, this is insane; you have asthma, you can't
- 8 breathe and here you are, reaching for a cigarette.
- You need to talk to somebody about that. And I said, 9
- yeah. And I've been doing this all my life, you 10
- know. And I am glad he took the time to talk to me 11
- because I'm sure I'm going to be all right with him. 12
- Q. Are there any other things that you wanted to see Alpert or someone like him to talk 14
 - about other than trying to stop smoking cigarettes?
- A. You know, like I've always been the 16 17
 - type to keep a lot of stuff bottled up inside of me. And I don't talk a lot, but people have been telling
- 18 me for a long time, you know, you need help, you need 19
- to talk to somebody, man -- because I'm not suicidal 20
- 21 or homicidal or nothing like that -- but, you know,
- 22 David, you're depressed, man, come up out of it, man,
- 23 snap out of it. I don't want to be out, I don't want
- 24 to be bothered, leave me alone.

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wanted to see David Joseph Alpert? 2 A. Yeah, to talk about, you know, like

3 letting go of things that I've been holding onto and 4 like, and like every time I think about my family, 5 you know, I get like this, you know, and I need to 6 let that go.

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Page 29

- Q. What kinds of things have you been holding onto; what are the major reasons, the major reasons why you wanted to see David Alpert?
- A. You know, the cigarettes, leave the cigarettes alone, my girlfriend says. Like now she says, when your kids come over, no one smokes cigarettes, you're the only one smoking, you have to go outside to smoke, and then where is this drinking pattern coming from, why do you drink like this all of a sudden. I said, I don't know.
- Q. So you've been trying to stop drinking and trying to stop smoking cigarettes?
- 19 I'm willing to go and try the patch, 20 do the pills, whatever they got, you know, let's stop 21
 - Q. Other than trying to stop drinking and trying to stop smoking cigarettes, are there any other reasons why you have gone to see David Joseph

Page 27

- People have been telling you that for 1 2 a long time?
 - A. Ever since a few years now.
 - Q. Who's been telling you that?
 - My closest friend, you know, he's,
- 6 he's a real buddy.
 - Q. His name?
 - His name is Levi Downing Jr., D O W N Α. I N G, junior.
 - Q. Where does he live?
 - A. In Brockton,
 - Q. The stenographic record is not going to reflect this, but it's obvious that you're emotionally affected by talking about Levi Downing.
- A. No, because like when I get emotional like this is because like he's, he's been a childhood friend, we've been friends for over thirty years, and 18 he's like a spiritual brother to me. I don't have no mother, no father, no sisters, no brothers, you know. That's when I get like this, because I don't have nobody to talk to.
 - Other than wanting to talk about stopping smoking cigarettes and about being depressed I think you said, was there any other reason why you

Alpert? 1

- Α. No, sir.
- 3 Do you have any idea as to why you've 4 been drinking or drinking too much?
 - A. Yes.
 - Q. Why do you think you have?
 - A. Just to keep the, to keep the, to
- 8 block things out, you know. 9
 - Q. What kinds of things have you been trying to block out?
- A. Like what happened, you know, why I'm 12 out of work; how come, you know, why my parents had to go so quickly, you know what I mean. Even though they were elderly, even though they were in their nineties, it just hurt, you know. And then there was another thing with one of my sister-in-laws. She stole my whole estate. There was nothing I could do about that.
 - Q. When you say she stole your whole estate, what do you mean by that?
 - A. I don't know, it just -- I know like when my -- she was my mom's beneficiary or something, man, and one day a lot of stuff just came up missing; I mean everything, all my mother's personal

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1.	Page 30	1.	Page 32
1	belongings and stuff, you know, and	1 2	A. Mm-hmm, yes.
2	Q. When did that happen?	2	Q. At any time? A. Yes.
3	A. I'd say around, my mom passed in 2003,		
4	I believe, yeah.	4	Q. As a consequence of Lowe's unlawful
5	Q. When did your dad die?	5	conduct? A. Yes.
6	A. I'd say in '99.	6	
7	MR. CASEY: I'd like to have marked as	7	Q. And you responded by identifying Lynn Community Health Center and a Sonya, S O N Y A, Pena,
8	Exhibit No. 1 to this deposition a six-page document	8 9	
9	which appears to be Plaintiff's Answers to	1	P E N A; correct? A. Yes.
10	Defendant's First Set of Interrogatories in this	10	
11	matter.	11	- ·
12	(Marked Exhibit 1; Plaintiff's Answers	12	A. I guess she did the intake for me.
13	to First Set of Interrogatories	13	She's the one that led me to this gentleman here,
14	Propounded by the Defendant)	14	David Alpert. She did the intake, took all the information that led me to him.
15	Q. Mr. Dean, do you recognize the	15	
16	document that's been marked as Exhibit No. 1?	16 17	
17	A. Do I recognize this?		
18	Q. Yes.	18	Q. Prior to seeing Sonya Pena and ultimately David Joseph Alpert, did you consult with
19	A. Yes, sir.	19 20	any kind of physician or other healthcare
20	Q. Is that your signature on the	21	professional of any kind regarding any physical or
21	second-to-last page of Exhibit No. 1?	22	emotional consequences that you believe stem from
22	A. Second to the last page, yes, sir.	23	your treatment by Lowe's?
23	Q. You signed this document on March 4th	24	A. Just for my asthma and my health I go
24	of this year?	24	A. Just for my asuma and my health I go
	Page 31		Page 33
١,	A. I believe so, yes.	1	to Lynn Community Health and just a walk-in clinic
1 2	Q. Just a few days ago; right?	2	there. I guess they got tired of me walking in.
3	A. Yes, sir.	3	That's like I just got Mass Health. They used to
4	Q. Did you review the document carefully	4	give me free care.
5	before you signed it?	5	Q. Who at Lynn Community Health did you
آڏا	A. Yes, sir.	6	see?
7	Q. You knew you were signing it under the	7	A. Just the staff there at the walk-in.
8	penalties of perjury; correct?	8	I don't know these people's names.
9	A. Yes, sir.	9	Q. Did you ever talk to any of the staff
10	Q. By that you knew if you did not tell	10	at Lynn Community Health about anything having to do
11	the truth completely that you literally could be	11	with Lowe's?
12	prosecuted criminally for lying?	12	A. No, sir.
13	A. Okay, right. Yes, sir.	13	 Q. Did you ever talk to any of the staff
14	Q. So you reviewed the document carefully	14	at Lynn Community Health regarding any emotional or
15	to ensure that it was accurate and truthful before	15	physical problems that you thought that you were
16	you signed it; correct?	16	suffering as a result of what happened to you at
17	A. Like, I spoke to my counsel, and	17	Lowe's?
18	there's a lot of things I don't quite understand; and	18	A. No.
19	what I did understand, that's what I	19	Q. Have you ever treated for any kind of
20	Q. Okay. Now, if you'll turn to the	20	depression or mental health related issues or stress
21	second page of Exhibit No. 1, specifically paragraph	21	or the like with anybody other than Sonya Pena and
22	number six. We asked you to identify all physicians	22	David Joseph Alpert at any time in your life?
	and/or healthcare professionals that you've	23	A. No.
	and/or healthcare professionals that you've		
23 24	consulted?	24	Q. Other than your asthma are you in good

10 (Pages 34 to 37)

			-
by telephone in an MCAD related fact finding or	₽2	like, a regional director or he was a, he was a	₽7
Q. All you know is that he participated	23		23
he did. I don't know.		_	22
A. I don't know that. I don't know what	12		12
you and Danny Puccio?	07	i	70
investigating or dealing with the incident between	61	diabetes. For some reason I'm compassionate to her	61
witness or did not in any way participate in	81	just been diagnosed with high blood pressure and	81
 Q. And to your knowledge he did not 	۲۲	A. No, but my girlfriend do because she's	ΖĮ
A. No, he was compassionate, he was cool.	91	have any other health issues?	91
that upset you?	ST	problems and the eczema you've just described, do you	ST
 Q. Was there anything that he did or said 	ÞΙ	Q. And other than your leg and feet	ÞĪ
A. Well, he spoke good, I mean, you know.	13	A. That's it.	εī
 Q. Did he treat you well? 	12	G with your legs?	12
-A. Oh, γes.	11	ON .A	11
 Q. Did he seem like a decent man? 	OI	basketball, are there any other problems	01
киом.	6	Q. Other than keeping you from playing	6
need to go talk to my family and friends. I don't	8	knots in the back of my legs.	8
in this situation before, and I just don't know. I	Z	these hamstrings, I've been getting these real tight	Z
A. I said, I don't know. I've never been	9	now in the gentlemen's league is I've been getting	9
Q. What did you say in response?	S	A. The reason why I'm not playing ball	2
A. That was it.	4	Q. What's the problem with your legs?	4
Q. Did he say anything else?	3	Q. How many years? A. For the last ten years anyway.	3
to me.	7 I	going on for years. Q. How many years?	د I
do to make all this go away? And that's what he said	١.	ZE 9gs9	
25 6			
trying to be compassionate and he said, What can we	₽ Z.	A. It's been going on for a, it's been	54
complaint was and what happened and he just he was	23	did that start?	23
A. Well, he was listening to what the	72	 In terms of your feet hurting, when 	77
time?	7.7	back of my knee and now it's on my foot.	12
Q. Okay. What did Mr. Rowell say at that	50	it used to be in my armpits and then it went to the	20
.A. Yeah.	61	the eczema, like, it goes from certain parts. Like,	61
or investigative conference?	18	also that comes with my asthma is the eczema. And	81
 Q the incident and some conciliation 	۷۲,	A. It's been going on for many like,	71
A. The incident.	91	Q When did that start?	91
Q. As it related to the	ST	something. I don't know.	SI
A. Yes, sir.	14	getting bigger. I guess they're swelling up or	14
him was at the MCAD?	13	A. Okay, you know, like, I guess they	13
with him and I take it the only time you spoke with	12	your feet hurts?	12
Q. I see. And the first time you spoke	11	Q. Let's be specific now. What about	11
intercom.	or	A. Well, you know, like	10
A. No, he was on the phone, he was on an	6	hurt?	6
Q. You saw him at the MCAD?	8	asthma, you say that your feet hurt and your legs	8
A. Yes, sir.	4	Q. Well, let's be specific. Other than	4
with whom you worked at the store in Danvers?	9	are. My feet hurt, my legs hurt, everything hurt.	9
Q. A higher level manager than the people	S	illnesses coming on now and I don't know what they	
A. From out of Connecticut.	b	you know. I'm afraid of getting old and the body can't take what it used to, you know. I find certain	τ ε
mediation before: Q. A regional manager of some kind?	ε z	A. I'm going through a mid-life thing, who year the population of and the hold was the population.	7
person from Lowe's and I spoke with him at a mediation before.	1	physical health?	ן ז
		Calana a lasia, al-	- 1
Page 36	` [.	PS 90e9	ı

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Service Control of the Control of th	st's	dt th	uı

(I+ of 8E saged) II			POTO ANT ANT ANT
 Q. Do you recognize the document that's 	Þõ	Q. And why did you call her?	54
(Marked Exhibit 2; MCAD complaint)	23		
which is three pages in length.		l	77
Exhibit No. 2 a copy of Mr. Dean's MCAD complaint			
MR, CASEY: Let's have marked as	07	1	02
write nothing.		1	61
A. I guess they did all that. I didn't	81		18
the MCAD complaint?			41
Q. Okay. Did Denise Page help you write	91		91
A. Through all of that, yes.	Šī	C 15	37
you through part of the MCAD process?		,	ÞΙ
Q. Okay. So Denise Page was representing	εī	A. Oh, always.	εī
That's when I went to Rainer and Rainer.		speaking to her nicely and saying hello to her	12
me to go into a court, I had to find somebody else.	II	Q. And, in fact, you made a point of	11
statute of limitations was running out. In order for		A. Yes.	10
find something, I guess, and they said that my	6	Q. Was a nice woman?	6
Stadfeld told me that the MCAD thing wasn't going to	8	A. Yes.	8
A. When, when someone from Barron &	۵ ک	Q. She seemed responsive and decent?	L
Q. When when composed from Barron &	9	A. Yes.	9
A. Last year, I guess.	S	her for calling you back?	S
Mr. Federico?	4	G. When she called you back, you thanked	Þ
Q. When first did you consult with	έ	A. I think she did, yeah.	ε
A. I don't know. I don't know.	7	 Q. And she called you back; correct? 	7
Q. How did you come to find Denise Page?	Ţ	ruis duy back.	Ţ
th aged	•	Page 39	
			L7
A. Ms. Denise Page.	24	Q. You left a message with her; correct? A. Yes, to let her know that they hired	23 24
Q. Was there any particular lawyer there?	23	1 • · · · · · · · · · · · · · · · · · ·	72
A. Barron & Stadfeld, I guess.	22	Danny Puccio; right? A. I kind of remember that, yes.	17
Q. Yes.	21	the incident, at some point after the incident with	50
Səmson əff .A	50	Q. And, in fact, you had called her after	61
consult?	61	A. Out of Springfield, Mass., yes.	81
Q. And what counsel did you first	81	manager; correct?	71
A. I think I was, I think I was, yes.	ZΙ	Q. She was a regional human resource	91
Q. You were still employed by Lowe's?	16	A. What was that again? A. What was that agains recourse.	12
I don't know.	ST	resource manager; correct?	14
month, but I'm going to have to say it was in 2002.	14	Q. In fact, she was a regional human	13
A. I can't quite exactly remember the	13	resource representative or something. I don't know.	12
Q. When in 2002?	17	A, I think she might have been a human receives a sepreceptive of competiting. I don't know	11
A. I'd say maybe 2002.	11		10
Q. When was that?	10	 A. Yes, sir. Q. Do you know what her position was? 	6
A. Right after the MCAD mediation.	6	Q. Springfield, Mass.?	8
C9265	8	in Springfield. O Springfield Mass 2	2
about anything having to do with this matter or this	4	Springfield office there, out of Lowe's headquarters in Springfield	9
Q. When first did you consult a lawyer	9	She came out of Springfield branch, out of the	5
neutral, you know. I don't know.	S	A. She was sitting in on the mediation.	b
thought I could speak to somebody who is pretty much	b		ε
talk to nobody right there in my work place, so I	3	A. Yes. Q. What about Sherri Smith, who is she?	ر ک
about how they hired this person back, and I couldn't	7	conciliation hearing; correct?	ī
Page 40 A. Because I needed to speak to somebody	Ţ	85 ageq	,
UVU .			

12 (Pages 42 to 45)

1 been marked se Exhibit Mo. 2, Mr. Dean? 2 A. Yesh. 3 Q. Is this person is? 4 Do you know who diat person is? 5 A. Wes, it. 6 Do you know who diat person is? 7 Do you know who signed this document under osth; 8 Q. You signed this document and the solution of the soluti	(24 of CA sense) C!	, ar im signai i di Blighean i kishindari ya s	niejowane.	- The Outs of Balance 1888, The Annual Annua	the creamann
1 been marked as Exhibit No. 2, Mr. Dean? 1 2 A. Yes, 1 3 P. Yes, 2 A. Yes, 3 A. Yes, 4 A. Yes, 5 A. Yes,	יוב וובגבו מומ מי פקום פווארוויות מופר	c ·>		- Gundan	h7
1 been marked as Exhibit No. 2, Mr. Dean? 1 2 A. Yes, 1 3 P. Yes, 1 4 Posey. I might have told them what of the told the story of what you thought Lowe's had one index of the told the story of what you the second happened it. 2 4 C. Old you prepared this for me. 2 5 C. May 1 might have told them what 1 6 C. May 1 might have told them what 1 7 The second page below your 1 7 The second page below your 1 8 C. May 2 might have told them what 1 8 C. May 2 might have told them what 1 8 C. May 2 might have told them what 1 8 C. May 2 might have told them what 1 8 C. May 2 might have told them what 1 8 C. May 2 might have told them what 1 8 C. May 2 might have told them what 1 8 C. May 2 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 3 might have told them what 1 8 C. May 4 might have told them what 1 8 C. May 4 might have told them what 1 8 C. May 4 might have told them what 1 8 C. May 4 might have told them what 1 8 Might have to	3			1	
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Q. Okay. But you knew by virtue of your	81	Danvers office ever treat you poorly in any way?	81
problems I ever had until this incident happened.	۷۲	Q. Affiliated with Lowe's outside of the	۲۲
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If I had a problem with making numbers match or	EI	available for me, you know.	13
was my duty, responsibility, just my job description.	77	somewhere and we just had all those numbers were	12
problems. We could take care of it in-house. This	11	things where I would have to call another store from	11
A. No, no. Believe me, I used to have	01	the store numbers. I could call anybody. We did	10
HR, you could always do that?	6	A. Oh, that's what my job is. I had all	6
address with higher level management, higher level	8	 Q. How did you get her number? 	8
Lowe's that if you had a problem that you needed to	7	yes.	7
you knew when you were employed at	9	A. I may have called her once or twice,	9
office with strike that, strike the question.	Ś	calling her; correct?	Ś
needed to talk with someone outside of the Danvers	b	Q. She didn't call you, you initiated	-
didn't you, if you ever had a problem, that you	3	people,	ε
during the time you were employed at Lowe's you knew,	7	Springfield at that store; they seemed to be kind	z
Q. I understand that. But my question is	ī	A. I knew, like, the people out there in	ī
6+ 9gsq		₹₽ 9gsq	
Brockton store and say, hey, Jim, how are you doing.	54	 But you knew you could call her? 	54
training people and sometimes I would call the	23	that area, you know, never.	23
RTM clerks, their return to manufacturers. I was	72	 Well, you know, we never went into 	77
opening the store in Brockton, I had to train their	7.7	you felt as though you could be honest?	7.7
There was guys that I used to train. When they were	02	 Q. You felt as though you could have 	20
	70 16	 A. Yes, correct. Q. You felt as though you could have 	
There was guys that I used to train. When they were	•	***	20
used to check up on the guys that I used to train. There was guys that I used to train. When they were	16	A. Yes, correct.	0Z
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Q. Did anyone outside of the Lowe's were not willing to help you? A. No. Q. Did anyone affiliated with the Lowe's Office ever give you the impression that they are not willing to help you? Q. Did anyone affiliated with the Lowe's Danvers office ever tell you or communicate to you in any fashion that you could not speak with people from A. No. Q. Or that you should not do so? A. No. Q. So you knew you were free to talk to people outside of the Danvers office affiliated with Lowe's whenever you wanted; correct? A. Well, I mean, like, as far as my job choe's whenever you wanted; correct? I had to speak to other people outside of the Danvers office because that was business, you know. Like, I used to check up on the guys that I used to train. Used to check up on the guys that I used to train. Used to check up on the guys that I used to train. There was guys that I used to train.	2 4 5 5 7 9 5 7 9 5 7 9 9 5 7 9 9 9 9 9 9 9	 A. No, no. Q. Or was treating you poorly; correct? A. Correct. Q. You thought she was treating you fine? A. I think she was okay. Q. You thought she was genuinely concerned how you were doing? A. Yes. Q. You called her several times? Q. You called her several times? A. Mo, no, no. A. Maybe once, maybe twice, the most. Q. Okay. And you never told her about A. Never. Q. Am I correct? A. Yes, correct. A. Yes, correct. 	3 4 5 6 7 9 8 1 1 2 1 1 1 1 2 1 1 1 1 1 1 1 1 1 1 1
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2 Q. And no once ever prevented you from a doing that; correct; right? 3 doing that; correct; right? 5 Q. I'm correct; right? 6 A. Yes. 7 Q. Who's Terry Johnson? 11 did, you know, make sure everything was running 11 did, you know, make sure everything was running 22 did the early being left in front of my one correct on whatever he are a personal mistreated in any way? 11 did, you know, make sure everything was running 22 did the early being left in front of my one correct on whatever he are a personal mistreated in any way? 11 did, you know, make sure everything was running 23 door. I might have went to him one time about that the problem was? 12 Q. Was he approachable? 13 A. Maybe once! complained to him about 23 door. I might have went to him one time about that 23 door. I might have went to him one time about that 23 door. I might have went to him one time about that 24 door. I might have went to him one time about that 25 door. I might have went to him one time about that 25 door. I might have went to him one time about that 25 door. I might have went to him one time about that 25 door. I might have went to him one time about that 25 door. I might have went to him one time about that 25 door. I might have went to him one time about that 25 door. I might have went to him one time about that 25 door. I might have went to him one time about that 25 door. I might have the the problem was? 2 A. Well, you know, like, when I come back 25 drongly door. I said maybe they can put it on the transpart to the problem was? 3 A. Well, you know, like, when I come back 25 drongly door. I said maybe they can put it on the transpart to the problem was? 3 A. Well, you know, like, when I come back 25 drongly door. I said maybe they can put it on the transpart that 25 drongly that 25 drongly door. I said maybe they can be able to do 26. What a large and the lime to the problem was? 3 A. Well, you know, like, who it is a fine of the come and tell me. 4 A. Well, you know, like, you know it is a large and the large and the large a				
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1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 Q. And the was one of the big regional 5 Q. Was he a decent guy? 6 Was he a decent guy? 7 Q. Was he a decent guy? 8 The office right beside me. We came in together. We bonded because, like, she was 1 the office right beside me. We came in together. We 1 thought so. 15 Q. Did you ever speak with him? 16 Q. Did you ever speak with him? 17 Q. And the store frequently, and the store frequently, and the store frequently. 18 A. Mow, he was one of the big regional and the store frequently. 19 Thought so. 19 Though so. 20 Though so. 20 Though so. 21 Though so. 22 Though state start she she so we start state of the door; is that so we start she should so. 20 Though so. 21 Though so. 22 Though state state state she she she she she she she she she sh				
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 A. No. 5 doing that; correct; right? 6 A. Yes. 7 Q. Who's Terry Johnson? 9 managers that would come to the store frequently, 10 maybe twice a month, just to check on whatever he 11 did, you know, make sure everything was running 11 did, you know, make sure everything was running 12 Q. Was he a decent guy? 13 Q. Was he a decent guy? 14 the office right beside me. We came in together. We 14 the office right beside me. We came in together. We 15 the office right beside me. We came in together. We 15 the office right beside me. We came in together. We 16 the office right beside me. We came in together. We 17 the office right beside me. We came in together. We 18 the office right beside me. We came in together. We 18 the office right beside me. We came in together. We 18 the office right beside me. We came in together. We 18 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me. We came in together. We 19 the office right beside me.		- 1		
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 A. No. 5 Q. I'm correct; right? 6 A. Yes. 7 Q. Who's Terry Johnson? 7 Q. Who's Terry Johnson? 8 A. Now, he was one of the big regional 9 managers that would come to the store frequently, 10 maybe twice a month, just to check on whatever he 11 did, you know, make sure everything was running 12 smooth. 13 Q. Was he a decent guy? 14 Estes, who was my that were being placed in that area, you just wanted 15 correct? 16 did, you know, make sure everything was running 17 A. She was the dispatcher who worked in that area in that area is that a store frequently, 18 A. She was the dispatcher who worked in that area is that a store frequently. 19 A. She was the dispatcher who worked in that area is that a store frequently. 19 A. She was the dispatcher who worked in that area is that a store frequently. 20 A. Was he a decent guy? 3 door. 4 Q. And these were returns that were being placed in that area, you just wanted a them signtly to the side of the door; is that a store frequently. 3 A. She was the dispatcher who worked in that area. 4 A. A. Mow, he was one of the big regional a store frequently. 5 A. She was the dispatcher who worked in that area. 5 A. She was the dispatcher who worked in that area. 5 A. She was the dispatcher who worked in that area. 5 A. She was the dispatcher who worked in the correct. 5 A. She was the dispatcher who worked in the correct. 5 A. She was the dispatcher who worked in that area. 5 A. She was the dispatcher who worked in the correct. 6 A. Was he a decent guy? 7 A. She was the dispatcher who worked in the correct. 7 A. She was the dispatcher who worked in the correct. 7 A. She was the dispatcher who worked in the correct. 8 A. She was the dispatcher who worked in the correct. 8 A. She was the dispatcher who worked in the correct. 8 A. She was the dispatcher who worked in the correct. 8 A. She was the correct. 8 A. She was the correct. 8 A. She was the correct who worked i				
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 A. No. 5 Q. I'm correct; right? 6 A. Yes. 7 Q. Who's Terry Johnson? 8 A. Now, he was one of the big regional 9 managers that would come to the store frequently, 10 maybe twice a month, just to check on whatever he 11 did, you know, make sure everything was running 12 smooth. 13 smooth. 14 Q. Who's Kris Lovett? 15 did, you know, make sure everything was running 16 A. Who's Kris Lovett? 17 Q. Who's Kris Lovett? 18 Correct. 19 A. Ocrect. 19 A. Ocrect. 20 A. Who's Kris Lovett? 3 door. 4 Q. And these were returns that were being placed in that area, you just wanted the managers that would come to the store frequently, and the store frequently. 5 A. Who's Terry Johnson? 6 A. Yes. 7 Q. Who's Terry Johnson? 8 A. Now, he was one of the big regional and the store frequently. 9 them slightly to the side of the door; is that the correct. 10 maybe twice a month, just to check on whatever he correct? 11 did, you know, make sure everything was running and the store frequently. 12 Q. Who's Kris Lovett? 13 door. 14 Q. And it's not that were being placed in that area, you just wanted and the store frequently. 15 Q. Who's Kris Lovett? 16 A. Yes. 7 Q. And it's not that were being placed in the store frequently. 18 A. Yes. 19 A. Yes. 10 A. Yes. 11 A. Yes. 12 Q. Who's Kris Lovett? 11 A. Correct. 12 A. Yes. 13 A. Yes. 24 A. Yes. 5 D. Who's Kris Lovett?		- 1		
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 A. No. 5 Q. I'm correct; right? 5 Q. I'm correct; right? 6 A. Yes. 7 Q. Who's Terry Johnson? 8 A. Now, he was one of the big regional 9 managers that would come to the store frequently, 10 maybe twice a month, just to check on whatever he 11 did, you know, make sure everything was running 12 did, you know, make sure everything was running 13 doing that to one everything was running 14 A. Orrect. 5 door, And these were returns that were being placed in that area, you just wanted 15 did, you know, make sure everything was running 16 A. Orrect. 17 A. Oh, yes. 6 A. And these were returns that were being placed in that area, you just wanted 18 A. Now, he was one of the big regional 9 them slightly to the side of the door; is that 19 correct? 10 maybe twice a month, just to check on whatever he 10 did, you know, make sure everything was running 11 A. Correct.			. ,	
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 A. No. 5 doing that; correct? 6 A. Yes. 7 Q. Who's Terry Johnson? 8 A. Now, he was one of the big regional 9 managers that would come to the store frequently, 10 maybe twice a month, just to check on whatever he 10 maybe twice a month, just to check on whatever he 11 Estes, who was my warehouse manager who from to fine the to the store frequently, 12 correct? 13 door. 4 Q. And these were returns that were being placed in that area, you just wanted 14 A. Now, he was one of the big regional 15 correct? 16 pages managers that would come to the store frequently, 16 pages managers that would come to the store frequently, 17 correct? 18 pages managers that would come to the store frequently, 18 pages managers that would come to the store frequently, 19 pages managers that would come to the store frequently, 20 pages managers that would come to the store frequently, 21 pages managers that would come to the store frequently, 22 pages managers that from the was one of the big regional 23 pages managers that from the was one of the big regional 34 pages managers that from the was one of the store frequently, 35 pages managers that from the was one of the big regional 36 pages managers that from the was one of the store frequently, 36 pages managers that from the was one of the store frequently, 36 pages managers that from the was one of the store frequently. 36 pages managers that from the was one of the store frequently. 37 pages managers that from the was one of the store frequently. 38 pages managers that from the was one of the store frequently. 4 pages managers that from the was one of the store frequently. 5 pages managers that from the store frequently is that the frequently in the fre			•	
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 Q. And no one ever prevented you from 6 A. Yes. 5 Q. I'm correct; right? 6 A. Yes. 7 Q. Who's Terry Johnson? 8 A. Now, he was one of the big regional 9 managers that would come to the store frequently, 9 them slightly to the side of the door; is that 9 them slightly to the side of the door; is that 9 them slightly to the side of the door; is that 9 them slightly to the side of the door; is that				
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 Q. And these were returns that were being blaced in front of your door? 5 Q. I'm correct; right? 6 A. Yes. 7 Q. Who's Terry Johnson? 8 returns being placed in that area, you just wanted				
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 A. No. 5 doing that; correct? 6 A. Yes. 6 A. Yes. 7 Q. And it's not that you cared about the		- 1		
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 A. No. 5 piaced in front of your door? 5 Q. I'm correct; right? 6 A. Yes. 6 A. Yes.				
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 doing that; correct? 4 A. No. 5 placed in front of your door? 5 placed in front of your door? 5 placed in front of your door? 7 placed in front of your door? 8 placed in front of your door? 9 placed in front of your door?				
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 3 door. 3 doing that; correct? 4 Q. And these were returns that were being				اع
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 2 tell them to stop putting the stuff in front of my 3 door.				
1 Estes, who was my warehouse manager who hired me 2 Q. And no one ever prevented you from 2 tell them to stop putting the stuff in front of my				
1 Estes, who was my warehouse manager who hired me				
				۲
03 450				١
		- 1	∪3 -	- 1

(72 ot b2 sensed) 21	Co co se registra	en en de la company de la comp	en men her til
appliances; refrigerators, wash machines, dryers	₽2	Can I use the restroom, please?	47
appliance department was good for leaving big			23
would leave all kinds of fixtures and stuff. The		_	77
different things there. Like the plumbing department		•	12
remnants. Different departments would leave	02		
department, they would come and leave, like,	61	!	61
different departments. You know, like the rug	81	.oV .A	18
A. I don't remember the names too much,	41	in front of your door?	۷I
name?	91	managers might have told those people to leave things	91
Q. First, who told you what; give me a	12	Q. Do you have any idea why any of the	SI
A. I would go back out	14	that too; I think he might have told them.	ьī
 Q. Who told you what in that respect? 	13	man or my manager, Bob Estes, might have been on	13
A. Yes.	12	think it might have been Glen DeLorean or the other	12
in management?	ΙΙ	A. I think he was one of the managers. I	11
of your work area were instructed to do so by someone	OI	Q. Do you know who told them to do that?	10
not the people who were leaving those things in front	6	them to do that.	6
 Q. Did anyone ever tell you whether or 	8	When they bring it to the warehouse, somebody told	8
.on .a	7	back of the store and bring it to the warehouse.	۷
were leaving things in front of your work area?	9	Job and responsibility is to move the stuff from the	9
 Q. Did anyone ever tell you why people 	S	different people come, different people go. Their	2
.on .A	Þ	A. They have different shift changes;	b
ever tell you who was leaving those things there?	ε	leaving things in front of your door?	3
Q. Just answer that question. Did anyone	7	Q. How many people were involved in	7
.A. Well.	τ	know who they were.	Ţ
CZ 9669		Page 55	
leaving things in front of your work area?	54	few years now. I guess if I see somebody I would	52
Q. Now, did anyone ever tell you who was	23	A. I guess so. I haven't been there in a	23
A. Correct.	77	y Laures so I bayen't been there in a	77
Q. Is that correct?	12	Q. Would you be able to recognize them if	12
A. Yes.	70	no.	02
said you didn't; correct?	61	 A. I do not know who these people are, 	61
to why the manager might have told them that, you	18	Q. And you don't know their names?	18
Q. And I asked you if you had any idea as	۷۲	just left stuff in front of there.	۷۲.
A. I said that, yes.	91	this. I don't know. That's what they did. They	91
have told them to do it; is that your testimony?	12	loke or something: Let's see how he climbs over	ST
did it, and you said that some of the managers may	b1	A. I guess they just thought it was a big	14
Q. And I also asked you about why they	13	front of your door had any reason to do it?	13
A. Yes.	12	whether or not the people who were leaving things in	12
 Jon did not know who they were? 	11	Q. I'm trying to understand from you	11
A. Yes, sir.	10	A. No. Like what do you mean, know what?	10
 Was that your testimony? 	6	Q. Did they know anything else about you?	6
V. Окау.	8	knew that, but I don't know who they were.	8
and you said you didn't know who they were; correct?	2	A. They knew I was the RTM, yeah, they	4
return items in front of the door to your work area,	9	Q. Did they know who you were?	9
was asking you about who the people were who left	S	know who these kids are.	s
Q. Now, Mr. Dean, just before the break I	Į	A. I don't know these people. I don't	b
BY MR. CASEY:	ε	were doing it?	ε
(Whereupon, a recess was taken)	z	Q. Give me the names of the people who	٦
MR. CASEY: Yes.	ī	where I was.	ī
9S 9geq .		Page 54	

16 (Pages 58 to 61)

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Q. And you and he were friendly before	47	Q. When did you complain to Bob Estes or	+ 7
A. I would say that, yes.	23	the management.	£2
for almost a year; right?		fellow associates or employees. I went straight to	77
that was after you had been working with Danny Puccio	21	straight to them about that. I didn't talk to the	
Q. Now, when the noose incident occurred,	50	I told Ken Godin. Those were managers. I went	07
A. No, I don't know why.	61	A. To my department manager, Bob Estes.	61
in front of your door?	81	Q. To whom did you complain?	81
didn't tell people in the store not to leave things	71	A. All the time.	71
Q. Do you have any idea why Ken Godin	91	your door?	91
A. No, I don't know why.	12	Q or things being left in front of	12
in front of your door?		A. All the time.	ÞΙ
tell people from within the store not to leave things	εī	appliances	13
Q. Do you have any idea why Estes did not	12	Q. Did you ever complain to anyone about	77
of the door, at least do that.	11	get in, do what I'm supposed to do?	11
people, your associates, to stop putting it in front	01	get in and answer the phone? How am I supposed to	10
A. I mean, like, at least tell the	6	it right in front of the door. How am I supposed to	6
Q. In what respect?	8	but then as the time went on, they were just piling	8
.bib I ,æY .A	۷	to go and open my door freely and be able to go in;	۷
inappropriate on their part?	9	when I first started working there, I would be able	9
 Q. Did you think that that was 	S	A. Yes, in a sense it is correct because	S
A. Pretty much.	Þ	Q. Is that correct?	Þ
<i>ф</i> јид}	3	J'nbib JI .A	3
Q. Did both Estes and Godin say the same	7	 Q. And that didn't change? 	7
told to do.	I	A. Correct.	ī
16 ageq		Page 59	
sew I just went and did what I on .A	52	and into your area for those purposes; correct?	74
Q. Did you say anything in response?	23	Lowe's these things were brought to your attention	23
'dn	22	 Q. Throughout your entire tenure at 	22
A. Yeah, that's your job, Dave; clean it	12	.səY .A	7.7
Q. What did they say?	20	things were brought to your work area; correct?	20
Α. Yes, yes.	61	Q. That was your job and that's why these	61
being left in front of your door; correct?	81	A. Right.	81
noose, you complained to Estes and Godin about things	۲۱	for sale and a reduction on the other?	71
 Q. Before you had any problem with the 	91	whether they would be put back out on the store floor	91
. ҮеэР.	12	 Q store credit on the one hand and 	12
correct?	ÞΙ	A, Store credit.	ÞΙ
noose, things were being left in front of your door;	13	the manufacturer for this sort of	13
Q. Before there was any problem with the	12	to whether or not those items would be sent back to	15
A. Before, before.	111	within the store to your area for a determination as	11
saw the noose or after you saw the noose?	10	 Q. Things were brought by various people 	10
Q. Were they left at your door before you	6	the floor.	6
A. Right then and there too.	8	can put a mark down price on it and put it back on	8
happened things were in front your door?	4	on this. The manufacturer will not take it back. We	۷
 Q. The day that the noose incident 	9	and I would say, Listen, we can't get a store credit	9
in front of my door then.	S	a little bent knob or something. It would come to me	S
now. I remember that day. There was a lot of stuff	Þ	it as a, you know, might have a little ding on it or	b
 A. Say at the time of this incident right 	ε	a mark down and put it back out on the floor and sell	ε
door?	7	would get sent to me for me to put the price on it as	z
Page 60 Ken Godin about things being left in front of your	I	you name it, it was there, you know. And like, it	ī
		Page 58	

17 (Pages 62 to 65)

(23 of 53 ganed) \$\tau\$	era angginggas	and the state of t	ikan ya da ar pere
conversation with Danny I called David Dean to the	+ Z	.oV .A	57
the third full paragraph, and I quote, "After the		1 -	
 Q. Mr. Godin writes on the first page in 	77		
like, sir.	12	and the time he actually left, in that two-week	17
A. I don't know what his signature look	50	Q. Between the time of his resignation	70
question.	61	· · · · · · · · · · · · · · · · · · ·	61
like. If you don't, you don't have to answer the		and garden area which was literally outside; correct?	81
form. If you have any idea what his signature looks	۲۱	Q. Well, they assigned him into the lawn	ΔĮ
MR. FEDERICO: I'll object to the	91	A. Yeah, kind of.	91
ou bage two?	12	correct?	SI
Godin's signature at the bottom lower left-hand area	ÞΙ	separated him from you and reassigned him outside;	ÞΙ
Q. Okay. And does that look like Ken	13	Q. During that two-week period they	13
A. I've never seen this before,	12	A. Yeah.	12
today, Mr. Dean?	11	he actually left two weeks later?	II
Q. Have you seen Exhibit No. 3 before	10	Q. They accepted it immediately and then	01
Report dated 11/9/01)	6	A. Two weeks later.	6
(Marked Exhibit 3; Lowe's Incident	8	Q. Did they accept his resignation?	8
by a Kenneth Godin.	7	A. I mean.	۷
November 9, '01; it appears to be a document prepared	9	COLLECT?	9
Exhibit No. 3 a two-page document which is dated	S	Q. They accepted his resignation;	5
MR. CASEY: Let's have marked as	4	A. Yes, and they went along with it too.	4
و. You sure about that? A. Yes, I am.	3	A. Yes. Q. You told Estes that?	ς 3
A. No. Q. You sure about that?	7 I	Q. You told Godin that?	Į
29 ageq	٠	Ea ageq	•
_			
 Q. Didn't Ken Godin say that to you? 	₽2	A. Yes.	52
ON .A	23	him get into any trouble; right?	٤Z
make you feel okay, didn't they?	77	Q. You simply said you didn't want to see	22
else, anything more that you'd like to us to do to	17	to make waves.	12
Q. And they asked you, is there anything	50	job here. I got a family to support. I'm not trying	50
Q. And you told them you were? A. Yes, yeah, I good.	61	say, oh, Dave, you had every right to call Danvers police and have him arrested. I'm trying to keep my	16
you all right? Are you okay, Dave? O And you told them you were?	81 71	A. From what I understand now, people are to real Danyers.	18
A: They asked me like this: Dave, are	91	it?	2I 9I
there was something else they might do?	12	didn't want to see Puccio get into any trouble for	SI
Q. And a number of them asked you if	114	Bob Estes and Ken Godin and other managers that you	14
А. Окау, уеаћ.	13	Q. And at first when it happened you told The Fates and Map Codin and other management that went	13
y Office week	71	A. Oh, man, where did that come from?	17
 Q they handled it properly, didn't 	II	Q. When that happened you were surprised?	11
A. Yes.	10	A. He seem to be.	10
Q. Well, you told them you thought	6	Q. He seemed to be a decent guy?	6
A. Kind of, yeah.	8	A, Correct.	8
properly, didn't you?	4	Q. Is that correct?	7
Q. And you thought that they handled it	9	.oV .A	9
A. Correct.	s	had no difficulty with Danny Puccio; correct?	Ś
	-		
problems with Puccio; correct?	b	 Q. Prior to that noose incident you had 	b
separated you and Puccio, and you had no further problems with Puccio; correct?	£	you know. Q. Prior to that noose incident you had	ξ
separated you and Puccio, and you had no further	3 7 1	you know.	ε

18 (Pages 66 to 69)

im too much.			
ganta oo; an	4 b Z	this the way you wanted it to be handled?	+ō
A. Just like I said, I didn't care for	23		23
selieve that you couldn't trust him?			77
Q. Did he ever give you any reason to	12		
ON .A	02	correctly. I'm asking you whether or not Godin said	07
Q. Did he ever mistreat you in any way?	61	Q. You're not understanding my question	61
A. I didn't care for him too much.	18	resolved, that's all,	81
و. Was he a decent guy؟	۲۲	want it to be. I just want, like, this to be	41
A. One of the ASMs, one of the managers.	91	it the way it's supposed to be handled, not the way I	91
Q. Who is Mark Gullotti?	51	It's not the way I wanted it to be handled. Handle	ST
.oN .A	14	felt that I was handling this the way he wanted it.	ÞΙ
ndicate to you that you couldn't trust him?	13 !	completely agreed with him. I then asked him if he	13
Q. Did he ever do or say anything to	12	A. This part here where he says I	12
know.	i II	Q. What about that is not accurate?	11
A. Yeah, he was; hi, how are you, you	10	.ov .A	10
Q. Mas he friendly to you?	6	Q. It's not?	6
.oN .A	8	A. No, sir.	8
òons.	_	Gullotti and Sexton?	Z
gave you any reason to believe that he didn't like		conversation between you and Godin in the presence of	9
Q. Did he ever do or say anything that	S	Is that a fair characterization of the	S
.oV .A	4	fairly." Close quote.	Þ
gave you any reason to believe that he was dishonest?	_	He said no, he felt that I reacted very rapidly and	3
Q. Did he ever do or say anything that	7	felt that I needed to do more to tell me immediately.	7
Page 69 Page was all right.	Ţ	this the way he wanted it to be handled and if he	Ţ
05 0000		(6) egg4	_
و. Was he a decent guy؟	54	Q. "if he felt that I was handling	54
warehouse.		A. Mm-hmm.	23
worked in the shipping and receiving area inside the		bage, quote, "I then asked him" meaning you?	77
	۷۵.		CC
A. Wesley Anderson was an associate that	22 21	Godin writes at the end of the first	
Q. Okay. Who is Wesley Anderson? A. Wesley Anderson was an associate that	77		20
		Godin writes at the end of the first	12
 Q. Okay. Who is Wesley Anderson? 	51 50	question. Godin writes at the end of the first	77 70
A. Yes, sir. Q. Okay. Who is Wesley Anderson?	51 50 16	Q. Hold on. Let me rephrase the question. Godin writes at the end of the first	16 16
that they're incorrect? A. Yes, sir. Q. Okay. Who is Wesley Anderson?	51 16 18	A. No, no. Q. Hold on. Let me rephrase the question. Godin writes at the end of the first	18 18 18
A. Yes. Q. So if Godin and Gullotti and Sexton all remember you saying that, it's your testimony that they're incorrect? A. Yes, sir. Q. Okay. Who is Wesley Anderson?	12 18 18 17	completely sgreed with him" meaning you? A. No, no. Q. Hold on. Let me rephrase the question. Godin writes at the end of the first	12 07 81 20 18
Q. You deny that? A. Yes. Q. So if Godin and Gullotti and Sexton all remember you saying that, it's your testimony that they're incorrect? A. Yes, sir. Q. Okay. Who is Wesley Anderson?	12 16 18 17 17 17 17	not sure. Q. At the end of this document, at least on the first page Godin writes, and I quote, "I completely agreed with him" meaning you? A. No, no. Q. Hold on. Let me rephrase the question. Godin writes at the end of the first	12 50 18 18 71 19
A. No, I did not. I did not say that. Q. You deny that? A. Yes. Q. So if Godin and Gullotti and Sexton all remember you saying that, it's your testimony that they're incorrect? A. Yes, sir. A. Yes, sir. Q. Okay. Who is Wesley Anderson?	12 16 17 17 17 17 17 17	A. I guess it kind of went that way. I'm not sure. Q. At the end of this document, at least on the first page Godin writes, and I quote, "I completely agreed with him" meaning you? A. No, no. Q. Hold on. Let me rephrase the question. Godin writes at the end of the first	12 07 16 18 21 21 21 21 31 31 31 31 31 31 31 31 31 31 31 31 31
that you felt that he had reacted rapidly and fairly? A. No, I did not. I did not say that. Q. You deny that? Q. So if Godin and Gullotti and Sexton all remember you saying that, it's your testimony that they're incorrect? A. Yes, sir. A. Yes, sir. Q. Okay. Who is Wesley Anderson?	12 16 17 17 17 17 17 17 17 17 17 17 17 17	conversation happened? A. I guess it kind of went that way. I'm not sure. Q. At the end of this document, at least on the first page Godin writes, and I quote, "I completely agreed with him" meaning you? A. No, no. Q. Hold on. Let me rephrase the question. Godin writes at the end of the first	12 20 18 17 18 19 19 17 17 17 17 17 17
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 Q. Do you deny that he said it or do you just not remember it? A. I don't remember him saying that. Q. Okay. Do you remember him saking you if you wanted him to do anything more? A. No, I don't remember him saying that. Q. You don't remember it. Q. Okay. Do you remember saying to him that you felt that he had reacted rapidly and fairly? Q. Okay. Do you remember saying to him that you felt that he had reacted rapidly and fairly? A. Yes. Q. So if Godin and Gullotti and Sexton all remember you saying that, it's your testimony that they're incorrect? A. Yes. A. Yes, sir. 	20 20 31 41 51 51 51 51 51 51 51 51 51 51 51 51 51	Gullotti ASM and Stephen Sexton ASM present to talk to David." Close quote. Is that true; did you speak with Godin, Gullotti, and Sexton on that day? A. I kind of remember that, yes. Q. And Godin goes on to write, quote, "I mmediately told him" meaning you "exactly what me his two-week notice to end his employment with me his two-week notice to end his employment with me his two-week notice to end his employment with leave over this." Close quote. Is that the way the conversation happened? A. I guess it kind of went that way. I'm not sure. Q. At the end of this document, at least on the first page Godin writes, and I quote, "I who, no. Q. Hold on. Let me rephrase the Q. Hold on. Let me rephrase the question. Godin writes at the end of the first guestion.	2 3 4 5 5 7 8 9 10 10 10 10 10 10 10 10 10 10 10 10 10
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19 (Pages 70 to 73)

(EC of 0C sapeq) Q1		**************************************	Section 1. In the state of the	and police of the Party
And Kat Richard told you that if there	o' '	54	Q. What about Kat Richard, who was she?	54
Correct.		23	He was I don't know, I don't know.	23
1	over this?	72	everybody else. Certain people act different ways.	77
yone to get into trouble or lose their job		22	A. He had a different behavior than	12
You also told Mr. Romano that you did		50	believe that you couldn't trust him?	ΟZ
	correct.	61	Q. Did he ever give you any reason to	61
Mm-hmm, that's what I thought, yeah,	-	81	A. Yeah.	81
31	together; co	۷۲	Q. But you're not sure, you're guessing?	۲۷
been friends and that you had worked well	Danny had	91	about the stuff being put in front of my door.	91
And you also told him that you and	φ.	12	guess you know, I think he knew a little something	12
Correct.	.Α	14	bring that right there, put that over there, but I	14
Is that correct?	.Q.	13	just think that he would have told them, no, don't	13
ОКау.	•	17	the stuff being left in front of my door, I would	12
	professiona	π	bringing this stuff. And by me talking to him about	11
agers had acted quickly and		OI	in the mornings and he had to see whoever was	01
uation was addressed and you told him that		6	A. He'd usually be the first person there	6
And he asked you how you felt about		8	C9365	8
Correct.	-	7	way or the other; you just thought it might be the	7
This samples along the aspirace binos so	him?	9	Q. You didn't have any reason to know one	9
bd garden area to finish out his notice you would not have any more contact with		S	with why all the stuff was being piled up in front of my door, I really felt that.	S
He told you that he had moved Danny to	Q. The lawn ar	b	thought that maybe he had a little something to do	3
Correct.		Σ 3	A. You know, like, for a long time I	7
that Danny had given his two weeks' notice?	-	ī	trust him?	ī
E7 9ged	pac naded		17 9ge 71	
And he told you that he had confronted	.Q	54	gave you any reason to believe that you couldn't	74
Correct.	Α.	23	 Q. Did he ever do or say anything that 	23
	Sed 1'nbib	22	.ou .a	72
to take steps to rectify the situation,	-	7.7	gave you any reason to think that he was dishonest?	12
atter was being addressed, and that Lowe's		02 [Q. Did he ever do or say anything that	50
In that discussion Romano told you	.р	6I	A. He was all right.	61
I kind of, yes.	Α.	81	Q. Was he a decent guy?	81
Do you remember that?	.g	71	there was a Steve and I believe maybe that was him.	71
Окау.	.A	91	I'm not quite sure about the last name Sexton, but	91
cio; right?		SI	manager under Bob Estes in the warehouse, I believe.	SI
ank Romano regarding the incident with		14	 Q. Who is Steve Sexton? A. Now, I believe Steve was the assistant 	13
Yes. And she sat in on a discussion between	.Α .Ω	12	A. No. Q. Who is Steve Sexton?	12
Someone you could talk to?	.Q.	11	needed to talk to him?	11
Yes,	.A	10	incident that he was available to talk to if you ever	10
Approachable?	δ	6	Q. Did he tell you on the day of the	6
I would think so, yes.	.A O	8	.oV .A	8
Decent person?	.δ	2	believe that he was dishonest?	Ž
	gir Na saw	9	Q. Did he ever give you any reason to	9
I thought she was a pleasant lady, she	.A.	s	.on .A	S
	me?	b	couldn't trust him?	Þ
What was she like, describe her for	ъ.	ε	he ever give you any reason to believe that you	ε
ivers store.	at the Dar	7	I understand what you're saying. I'm asking you did	7
Now, she was our human resource person	Α.	Ţ	Page 70 Q. I'm asking you a different question.	ī
ZC ∍geq				

20 (Pages 74 to 77)

(ST of AS 2000) OS	and the second	termination of the second control of the second of the sec	produces and the
 Q. She was in the store after you were 	Þζ	it, when I made it back to my desk, one of the reps	74
A. Yes.	23	when I am through with these two reps. When I made	
he store; correct?	7 77		
Q. And you would frequently see her in	12		
A. Yeah.	07		
laγ, wasn't she?			61
 Kat Richard was in the store every 	81		18
A. Yes, sir.	۷,	A. To whom this may concern: Today,	۲۷
correct?	91		91
 This is how you felt at the time; 	SI	says, and you have a chance to review what you wrote.	12
A. Very truthful.	ÞΙ	purposes: I'll be sure I know what your handwriting	14
 And what you wrote was truthful? 	13	record what you wrote and that will serve two	13
A. No, I didn't leave anything out.	12	Q. Sure. Why don't you read into the	75
 And you didn't leave anything out? 	11	A. Let me just go over and see.	11
A, Yes.	10	λons	10
 And this is what you wrote? 	6	Q. You didn't leave anything out, did	6
A. Correct.	8	A. Yes, sir.	8
story; correct?		Q. What you wrote there was true; right?	Z
to write a statement reflecting your side of the		A. Yes, sir.	9
 You were asked by the manager on duty 	S	to write that; correct?	S
you for your time. David Dean.		Q. You were given all the time you needed	Þ
and people don't need this kind of behavior. Thank		A. Correct.	3
I'm all right, but we as associated, as associated		correct?	7
humorous to others can be very insulting to most.		Q. No one forced you to write that;	Ţ
∠√ 9ge ^q		S√ Sge 75	ĺ
20 316011 32114 2112 2121 2122 2122		(
about, we're all adults here and what might be		A. Yes, sir.	24
Q.	23	second page?	23
	77	Q. And that's your signature on the	77
environment without the ugly side of racism I can't read it,		Q: Thers your namewheng: A: Yes, sir.	17
about. I just want to work in a safe, friendly		G. That's your handwriting?	50
a friend. I am sorry for the situation that came		A. Yes, sir.	61
matters, especially from someone who you trust to be		document that's been marked Exhibit No. 4?	18
when one crosses the line, such as this, this creates		Q. Mr. Dean, do you recognize the	71
people. We all try to get along with each other and when one crosses the line, such as this exertes		Report dated 11/8/01)	91
behavior. Basically my fellow associates are nice		(Marked Exhibit 4; Lowe's Incident	12
humiliated this way with distasteful, childish		bages in rengary which appeals to be his beans a statement regarding the Puccio incident.	14
I'm all right, but no one needs to be hurt or thim the trimple of the first of the second of the sec		pages in length, which appears to be Mr. Dean's	EI
make sure I was okay about what had just happened.	11	MR. CASEY: I want to have marked as Exhibit No. 4 a document dated November 8, 2001, two	12
to the office to hear my side of the story and to			11
MOD, in the warehouse. Soon afterward I was called to the office to hear my side of the story and to		A. Yesh.	01
A infraction to manager on duty, or MOD in the warehouse. Soon affended Lwas selled	6	this incident, didn't he?	6
	8	Q. Danny Puccio apologized to you after	8
	2	ina (bia (bin dina basa) bia	4
laughing. But there was nothing funny and that's when I brought this	9	her about anything, did you?	9
Danny, What's all this about? And he just started laughing. But there was nothing funding.	5	Q. And you never did go to complain to	S
distasteful and rather embarrassing. So I says to	7	A, Correct.	b
was a black hangman's moose which was very	3	PGF?	3
and myself could not believe what was on my desk. It	7	going forward that you should feel free to come see	7
at Jash yar an sew tedw eveiled for blings flesym bas	١	Page 74 was anything that you needed to talk with her about	I
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Page 78 transferred into the lawn and garden center; correct? 1 2 Α. Yes. Q. And you continued to see her? 3 4 A. Yes. 5 Q. You never complained to her about being transferred into the lawn and garden center, 6 7 did you? 8 A. No. You never told her you were having any 9 Q. problems with management or otherwise in the lawn and 10 garden center, did you? 11 12 Α. No. 13 At the time you agreed to the transfer Q. into the lawn and garden center, didn't you? 14 15 Α. And you thought it would give you a 16 Q. fresh start; correct? 17 18 A. Yeah. 19 And you said that to Mr. Estes; Q.

problems on the job at Lowe's?

After you were transferred into the

lawn and garden center, did you experience any

Page 79 A. Well, things just seemed different 1 after that, you know, because people would keep 2 coming out to me, why are you in lawn and garden, how 3

come you ain't in your office, and I had to explain this over and over again.

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correct?

A.

Q.

Yeah.

O. Other than people asking you why are you in lawn and garden, did you experience any kind of problems at work for Lowe's after you were transferred into the lawn and garden center?

A. Until that one time there was one incident when I came out the lawn and garden, I came into the employee cafeteria to get something cold, and I had seen that they had rehired Danny Puccio, and that's when I couldn't believe my eyes.

Q. Okay. So just so I understand your testimony, you agreed to be transferred into the lawn and garden center?

A. Mm-hmm.

18 You went over there to work, you didn't have any problems whatsoever with Lowe's or 20 Lowe's management or having in any respect to do with 21 your job after you were transferred into the lawn and garden center other than the fact that you learned on 24 one occasion that the company had rehired Danny

Puccio; is that correct? 1

> Α. Right, right.

How did you learn that he had been Q.

rehired?

 A. I went into the cafeteria to get my soft drink, and the next room right beside there where we did our orientation where they were bringing their new associates in, I seen Danny come out of there with an apron on and I'm like, oh, my God.

Page 80

He wasn't, you later found out, working in the Danvers store; correct?

A. I don't know. That was the first time 13 I seen him after that incident. When he resigned or whatever, that was the, that was the last time I seen him because I didn't see him no more after that. I knew that he was rehired somewhere.

Q. When was that that you saw him with the apron on?

19 A. I really can't tell you, I can't tell 20 you. It had to be during the, maybe the end of the 21 summer or maybe the beginning of the fall because it was still kind of warm out. 22

Q. You think it was the end of the summer?

Page 81

Maybe. Α.

And you then worked for another three or four months after that; correct?

A. About right.

And you didn't have any other problems after you saw him with Danny Puccio; correct?

A. Well, well, there was one problem. Like, when I was in the RTM in my office there, I had a set schedule. I would come in every morning at 7:30 and I would leave every afternoon at 3:30. When they put me out in lawn and garden, man, my hours went from six o'clock in the morning one day until two in the afternoon; the next day they wanted me to come in at midnight to work until six o'clock in the morning. Just the fluctuation of the schedule, it was really bizarre. One minute I'd be working three to eleven and -- oh, they just kept playing with my, you know what I mean.

Q. Were there legitimate business reasons for that scheduling?

No, they just wanted to, I guess, A. bother me.

Ο. That's what you think, they wanted to 24 bother you?

			D 04
1	Page 8	1 .	Page 84
1	A. I really believe that.	1	Q. You never complained to anybody at
2	Q. Who was it that was doing that?	2	Lowe's about how Mr. DeLorean was treating you, did
3	 A. Whoever was making up the schedule. 	3	you?
4	Q. You don't know?	4	A. No.
5	 A. I'm going to say Glen DeLorean. 	5	Q. Why did you leave Lowe's?
6	Q. Do you know or are you guessing?	6	 A. Glen DeLorean again at the end of my
7	A. I'm going to say Glen DeLorean, he did	7	shift, I did my shift, and I think it was five
8	it.	8	o'clock that evening, and he says, Hey, we need you
9	Q. That's your testimony under oath, you	9	to stay late. I said, I'm sorry, I can't. I have a
10	know that he was doing it?	10	prior commitment. I have a part-time job that I have
11	A. I believe he was, yes.	11	to go get to. And he says, Well, Dave, you're not
12	Q. How do you spell his last name?	12	going to leave me no choice. I said, Glen, do
13	A. D E capital L O R E A N, DeLorean.	13	whatever you want to, man. I've had it up to here
14	Q. What was his supervisory relationship	14	anyway. I went to my other job. He said, Hey, if
15	to you; was he your direct manager?	15	you leave, I'm going to have to write you up and
1	A. Yes.	16	that's grounds for termination. I said, Whatever.
16		17	The next day, that was my day off and
17			I didn't go back to work, and I think he gave me a
18	soon as you were transferred into lawn and garden?	19	phone call telling me that when I come in to come
19	A. Yes.	20	straight don't punch in, just come straight to see
20	Q. And why do you think that he was		him, Glen DeLorean. And I knew what that meant. I
21	trying to give you a hard time?	21	•
22	A. I don't know, sir. I really don't	22	didn't even go back. I just didn't even go back.
23	know.	23	Q. Did you call to tell Mr. DeLorean or
24	Q. Do you have any idea what his	24	to tell anyone else at Lowe's that you would not be
1			
	Page 83		Page 85
	Page 83	1	Page 85 returning to work?
1 2	motivation was?	1	returning to work?
2	motivation was? A. No, I really don't. I just know all	1 2	returning to work? A. No, I didn't.
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Page 88 Page 86 1 AFTERNOON SESSION Just like yours? 1 Ο. 2 CONTINUED DIRECT EXAMINATION It wasn't -- I didn't see too many 2 people in there at midnight but me. I was the only 3 BY MR. CASEY: 3 Q. Back on the record after the lunch 4 4 one in there. 5 break, Mr. Dean, I want to have several documents 5 How many times did you go in at Q. 6 marked as exhibits to the deposition. 6 midnight? 7 I'd like to have marked Exhibit No. 5 MR. FEDERICO: Object to the form, 7 8 a one-page document that is entitled Lowe's Employee 8 argumentative. 9 Orientation Training Record. 9 A couple times, few times. (Marked Exhibit 5; Lowe's Employee 10 10 Why were you asked to work late at night on those occasions? 11 Orientation Training Record) 11 12 Q. Do you recognize this document, To water the plants. 12 13 Mr. Dean, Exhibit No. 5? Q. When did that happen? 13 14 A. To put, to, to water the plants and to A. Yes, sir. 14 15 O. Is that your signature near the bottom put certain stock away. 15 When did that happen? 16 of the page? Q. 16 17 Yes, sir. Right after when they put me in lawn 17 Α. 18 Q. And by signing is it fair to say that 18 and garden. Q. That was in April of 2002? 19 it indicates that you received training regarding the 19 subject matters that are checked in the columns above 20 20 A. I believe so, yes, sir. 21 your signature? Q. So on a couple of occasions in your 21 22 A. Yes, mm-hmm. first week or so working in lawn and gardens, they 22 had asked you either to stay or come in late to water 23 So that, among other things, you 23 received training regarding the company's open door plants and put stock away? 24 Page 87 Page 89 1 policy? A. Yes. 1 And that never happened again after 2 A. Yes. 2 Q. 3 Q. And you understood what the company's 3 that? 4 open door policy was? It happened a few times. That 4 A. happened for months. It happened for a few months. 5 No, I kind of forgot. 5 Q. But you knew it at the time; correct? It happened a few times over the 6 6 Q. 7 course of months? I guess so, yes. 7 8 And that is that if you have a problem 8 Α. Q. Did you ever ask why they wanted you 9 at any time with your direct supervisor or with 9 to water the plants late at night? co-workers, you can always go to people in the 10 company above your manager in the corporate hierarchy A. They said that's your job description. 11 11 12 or outside of the particular store in which you work 12 No problem. to make sure that you're getting objective people Q. Was anyone else in the store when you 13 13 from Lowe's to look at the situation? were there watering the plants? 14 14 15 A. Yes. A. There might have been a few other 15 You're aware of that? people in other departments, you know, putting stuff 16 Q. 16 up over there in them departments. 17 Yes. Α. 17 MR. CASEY: I need to break for lunch 18 MR. CASEY: I want to have marked as 18 Exhibit No. 6 a one-page document that relates to 19 now. I have a meeting that I have to attend for 19 Mr. Dean's employment with Lowe. 20 roughly an hour. Why don't we break for an hour, 20 (Marked Exhibit 6; Acknowledgement come back at one o'clock, and we shouldn't be 21 21 terribly long after that before we finish up, okay? 22 dated 1/6/01) 22 Q. Mr. Dean, do you recognize this 23 23 MR. FEDERICO: Well, sure. (Whereupon, a lunch recess was taken) 24 document? 24

	Page 90	Ι.	Page 92
1	A. Yes.	1	A. Yes.
2	Q. And is that your signature toward the	2	MR. CASEY: I'd like to have marked as
3	bottom of the page?	3	Exhibit No. 7 your application for employment at
4	A. Yes, sir.	4	Lowe's dated January 2, 2001 which is in two pages.
5	Q. This is also something that you signed	5	(Marked Exhibit 7; Application for
6	as part of your orientation and training before you	6	Employment dated January 2, 2001)
7	actively commenced work with Lowe's; is that correct?	7	Q. Do you recognize Exhibit No. 7?
8	A. Yes, sir.	8	A. Yes.
9	 Q. And did you read this document before 	9	Q. Is that your signature at the bottom
10	you signed it?	10	of the first page?
11	A. Yes.	11	A. Yes, sir.
12	Q. So you knew that in Section I, where	12	Q. And in the lower left-hand column on
13	it says "Notice of Lowe's policies," you were	13	the second page is that your
14	instructed that, and I quote, "If you are subjected	14	A. Yes, it is, sir.
15	to discrimination, including sexual harassment, or if	15	Q signature?
16	you are aware of a violation of any of the policies	16	A. Yes.
17	above, report it immediately to your store/location	17	Q. Okay. Now, you knew when you were
18	managerIf immediate satisfactory action is not	18	filling out this employment application that you were
19	taken, call or write Lowe's Internal Audit	19	to be truthful in doing so; correct?
20	Department" and then it provides both an address	20	A. Correct.
21	and a telephone number, close quote. Do you see	21	Q. And you were, in fact, answering these
22	that?	22	questions fully and truthfully; correct?
23	A. Yes, I see that.	23	A. Yes.
24	Q. And you retained a copy of this	24	Q. You see in the section entitled "Work
\vdash		_	
١.	Page 91		Page 93
	document during the course of your employment at	1 2	History" on page one of Exhibit 7 near the bottom
2	Lowe's; correct?	3	A. Work history, yes. Q you were asked to identify your
3	A. I believe so, yes. Q. So that you knew that if you had a	4	Q you were asked to identify your last three or four employers immediately preceding
4	Q. So that you knew that if you had a problem with what your managers were doing or how you	5	this application for employment at Lowe's; correct?
5	were being treated in any fashion by anyone while you	6	A. Yes, sir.
6	were employed at Lowe's that you could always go to	7	Q. And you identified your then current
7	your department head, and indeed you could go above	8	employer as New Boston?
8	the head of your department head, and call or write	9	A. Yes.
1 .	Lowe's Internal Audit Department to address any	10	Q. Is that correct?
10 11	complaints you might have?	11	A. Yes, sir.
12	A. Correct.	12	Q. And you were, in fact, working for New
13	Q. You understood not only you could do	13	Boston in January of 2001; is that correct?
14	that but that you were supposed to do that?	14	A. I guess, yes.
15	MR. FEDERICO: Object to the form.	15	Q. And you had been working there for a
16	You can answer.	16	couple months?
17		17	A. Yes, sir.
		18	Q. What were you doing for New Boston?
18	Q. Who is Janie Jordan? A. That was a friend of mine.	19	A. It was a temp agency, and they would
19 20		20	send us out on assignments to different places. I
21	Q. Is that a girlfriend? A. She was, yes.	21	did work at McDonald's warehouse where we would store
22	Q. A woman you lived with?	22	the products in the truck to be sent to the local
23	A. In the past.	23	McDonald's throughout the state.
23 24	Q. Okay. Are you still friends with her?	24	Q. And prior to that you had been working
- '	Constitution for some management		The prior to side you not been froming

		T^-	Page 06
١.	Page 94 at Home Depot?	1	Page 96 Q. So they terminated you for testing
2	A. Yes, sir.	2	positive for marijuana?
3	Q. And I take it from your job	3	A. Yes, sir.
4	application that you worked at Home Depot between	4	Q. And they told you that?
5	March of 2000 and November of 2000, approximately	5	A. Yes, sir.
6	eight months?	6	Q. And you knew that on or about the day
7	A. Yes, sir.	1 7	that you were terminated in November
8	Q. Is that correct?	8	A. Yes, sir.
9	A. Yes, sir.	9	Q of 2000?
10	Q. What did you do for Home Depot?	10	A. Yes, sir.
11	A. That's where I learned to do my RTM	11	Q. You knew that before you filled out
12	work for Lowe's. I was a RTV which there is return	12	this work application?
13	to vendor.	13	A. I filled out no, no, I like when
14	Q. Okay. And did you work for Home Depot	14	I filled they gave me a drug test when I filled
15	at any time other than that eight-month period	15	out this work application.
16	between March of the year 2000 and November of the	16	Q. No, no, listen to me for a second.
17	year 2000?	17	When you prepared the information that's contained on
18	A. No, sir, just what's there.	18	the document that's been marked as Exhibit 7
19	Q. Just that eight-month period?	19	A. Yes.
20	A. Yes.	20	Q you did that work in January of the
21	Q. All right, and you're sure of that?	21	year 2001; correct?
22	A. Yes.	22	A. Yes.
23	Q. Why did you leave Lowe's I'm	23	Q. As of January 2d, 2001 you knew that
24	sorry why did you leave Home Depot?	24	you had been terminated by Home Depot for testing
	• •		
		ļ	
	Page 95		Page 97
1	A. Because it was, it was a little bit	1	positive for marijuana; correct?
2	A. Because it was, it was a little bit difficult for me to get there because at this	1 2	positive for marijuana; correct? A. Yes.
	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living	1 2 3	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history
2	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule	1 2 3 4	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were
2 3	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to	1 2 3 4 5	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you?
2 3 4 5 6	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work.	1 2 3 4 5 6	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested
2 3 4 5 6 7	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave	1 2 3 4 5 6 7	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too.
2 3 4 5 6 7 8	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily?	1 2 3 4 5 6 7 8	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the
2 3 4 5 6 7 8 9	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes.	1 2 3 4 5 6 7 8 9	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not
2 3 4 5 6 7 8 9	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated?	1 2 3 4 5 6 7 8 9 10	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours?
2 3 4 5 6 7 8 9 10	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes.	1 2 3 4 5 6 7 8 9 10	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right.
2 3 4 5 6 7 8 9 10 11 12	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what?	1 2 3 4 5 6 7 8 9 10 11 12	A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely
2 3 4 5 6 7 8 9 10 11 12 13	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated.	1 2 3 4 5 6 7 8 9 10 11 12 13	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it?
2 3 4 5 6 7 8 9 10 11 12 13 14	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated. Q. You were terminated?	1 2 3 4 5 6 7 8 9 10 11 12 13 14	A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it? A. Not entirely.
2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated. Q. You were terminated? A. Yes.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15	A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it? A. Not entirely. Q. Because, in fact, you had been
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated. Q. You were terminated? A. Yes. Q. So you left involuntarily?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16	positive for marijuana; correct? A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it? A. Not entirely. Q. Because, in fact, you had been terminated for testing positive for marijuana;
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated. Q. You were terminated? A. Yes. Q. So you left involuntarily? A. Okay, yes.	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17	A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it? A. Not entirely. Q. Because, in fact, you had been terminated for testing positive for marijuana; correct?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated. Q. You were terminated? A. Yes. Q. So you left involuntarily? A. Okay, yes. Q. Why were you terminated?	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18	A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it? A. Not entirely. Q. Because, in fact, you had been terminated for testing positive for marijuana; correct? A. Correct.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated. Q. You were terminated? A. Yes. Q. So you left involuntarily? A. Okay, yes. Q. Why were you terminated? A. There was an accident where a fork, a	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19	A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it? A. Not entirely. Q. Because, in fact, you had been terminated for testing positive for marijuana; correct? A. Correct. Q. You didn't tell anybody at Lowe's that
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated. Q. You were terminated? A. Yes. Q. So you left involuntarily? A. Okay, yes. Q. Why were you terminated? A. There was an accident where a fork, a forklift, a fork jack rolled over my foot; and when	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20	A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it? A. Not entirely. Q. Because, in fact, you had been terminated for testing positive for marijuana; correct? A. Correct. Q. You didn't tell anybody at Lowe's that you had been terminated by Home Depot for testing
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated. Q. You were terminated? A. Yes. Q. So you left involuntarily? A. Okay, yes. Q. Why were you terminated? A. There was an accident where a fork, a forklift, a fork jack rolled over my foot; and when it rolled over my foot, their policy was to send me	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it? A. Not entirely. Q. Because, in fact, you had been terminated for testing positive for marijuana; correct? A. Correct. Q. You didn't tell anybody at Lowe's that you had been terminated by Home Depot for testing positive for marijuana?
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated. Q. You were terminated? A. Yes. Q. So you left involuntarily? A. Okay, yes. Q. Why were you terminated? A. There was an accident where a fork, a forklift, a fork jack rolled over my foot; and when it rolled over my foot, their policy was to send me straight to the hospital. When I went to the	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22	A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it? A. Not entirely. Q. Because, in fact, you had been terminated for testing positive for marijuana; correct? A. Correct. Q. You didn't tell anybody at Lowe's that you had been terminated by Home Depot for testing positive for marijuana? A. No, I didn't, sir.
2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Because it was, it was a little bit difficult for me to get there because at this particular store, it was in Salem, and by me living in Lynn it was, like they just started a bus schedule there, and I used to have to depend on friends to pick me up and bring me to work. Q. Was there any reason did you leave voluntarily? A. Yes. Q. You were not terminated? A. Yes. Q. Yes, what? A. I was terminated. Q. You were terminated? A. Yes. Q. So you left involuntarily? A. Okay, yes. Q. Why were you terminated? A. There was an accident where a fork, a forklift, a fork jack rolled over my foot; and when it rolled over my foot, their policy was to send me	1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21	A. Yes. Q. So when you prepared this work history portion of the job application for Lowe's, you were not entirely truthful, were you? A. Oh, I was truthful because they tested me there too. Q. Well, but when you were asked for the reason for leaving Home Depot you answered, not enough hours? A. Oh, right. Q. Correct, and that was not entirely truthful, was it? A. Not entirely. Q. Because, in fact, you had been terminated for testing positive for marijuana; correct? A. Correct. Q. You didn't tell anybody at Lowe's that you had been terminated by Home Depot for testing positive for marijuana?

Page 100 Page 98 companies, they let a lot of people go, and I was one error and filled it out as 1/2/00 when, in fact, you 1 prepared this document on 1/2/01 as is reflected 2 of them. 2 correctly on the second page of Exhibit 7; correct? 3 MR. CASEY: I want to have marked as 3 Exhibit No. 8 a copy of the Complaint and Jury Claim 4 A. Correct. Q. Now, in your complaint to the MCAD -that you filed in superior court in this matter. 5 5 and I'll show you again the document that was marked (Marked Exhibit 8; Complaint and Jury 6 6 as Exhibit No. 2 -- you stated under oath to the MCAD 7 Claim) 7 that you had worked at Home Depot for two years, and Q. Do you recognize the document that has 8 8 that's in the second sentence of the second paragraph 9 been marked as Exhibit No. 8, Mr. Dean? 9 under the section entitled, "The particulars are." 10 A. I guess this is the first time I ever 10 seen this. Do you see that? I quote, "I was hired as a Return 11 11 12 to Manufacturer, a position in which I had two years 12 Q. Is that right, you haven't seen it of experience at Home Depot." Close quote. Have I 13 before? 13 14 A. I believe this might be the first time read it accurately? I ever seen this. A. Yes, sir. 15 15 Q. And when you wrote that to the MCAD, 16 Q. Do you know who Chris O'Connor is? 16 you were not being entirely truthful, were you? 17 Α. 17 A. Well, I didn't have all my, my dates 18 Just yes or no, did you speak with 18 correct, you know. I was just saying this off the anyone affiliated with Mr. Federico's law firm to 19 19 20 prepare a document for filing suit in this case, just 20 top of my head. Q. So in your complaint to the MCAD, you 21 yes or no? 21 said that you had two years' experience at Home Depot 22 Α. No. 22 when, in fact, you only had eight months' experience 23 MR. CASEY: I want to have marked as 23 24 Exhibit No. 9 a performance review related document 24 there; correct? Page 99 Page 101 dated at least with respect to your signature I think I had more than eight months 1 1 2 August 31, '01; it's one page. 2 at Home Depot. 3 (Marked Exhibit 9; Lowe's Strategic Look again at the first page of 3 Exhibit 7 where it indicates you worked at Home Depot 4 Training & Achievement Review/Career 4 from March of 2000 to November of 2000; do you see 5 Development Review dated August 31, 5 6 2001) 6 that? 7 7 Q. Do you recognize Exhibit No. 9? A. Yes, sir. 8 A. Yes, sir. O. Is that accurate? 8 A. I guess it is, yes. I'm not real 9 Q. This is the first performance related 9 review that you received in writing from Lowe's after 10 sure, but I guess it is. 10 you commenced work there in January of '01; correct? Q. Prior to that you had worked at Arrow 11 11 12 A. Yes, sir. Electronics? 12 13 Q. And it's signed by Robert Estes, your 13 A. Yes. 14 supervisor, and by yourself at the lower left-hand 14 Q. For approximately four years? 15 corner at the bottom of the page? 15 A. Yes, sir. Did you leave there voluntarily or 16 A. Yes, sir. 16 Q. involuntarily? 17 Q. You had a chance to review this 17 document before you signed it; correct? A. I left there voluntarily. 18 18 O. Under what circumstances? 19 A. Yes, sir. 19 A. The assignment, what it says here, it 20 And you thought that it fairly and 20

accurately reviewed your work for the first eight

And you knew that you had an

months of your tenure at Lowe's; correct?

Yes, sir.

Α.

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had ended. Arrow Electronics used to, it was, used

Arrow, and then once they were sold and they were

to be Ritchie Electronics, but Ritchie was sold to

going through their transition or switching the

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	Page 102	1.	Page 104
1	obligation to provide comments in a section entitled	1	to be at least your second level supervisor; correct?
2	"Employee Comments" if you wanted to disagree with or		A. Yes.
3	add to anything that was contained in your review;	3	Q. And you never registered any
4	correct?	4	complaints with him regarding how you were being
5	A. That's correct.	5	treated in the lawn and garden center, did you?
6	 Q. And you knew that you could not only 	6	A. No, sir.
7	write on the front page but you could go on and write	7	Q. I'm correct; right?
8	on the back of the page if you needed more space to	8	A. Yes, you are.
9	state your comments; correct?	9	Q. And he was an approachable guy; if you
10	A. Yes, sir.	10	needed to speak with him, he was around and always
11	 Q. Mr. Estes noted in the supervisor 	11	willing to listen, wasn't he?
12	comments section that you needed, quote, "some	12	A. Yes.
13	improvement on his" meaning your "attendance	13	MR. CASEY: I want to mark as Exhibit
14	and on the organizationhis paperwork, like OFR and	14	No. 10 a one-page document that appears to be your
15	cleared RTM reports." Close quote. Do you see that?	15	review effective January 6, '02 which you signed on
16	A. Yes, sir.	16	January 30, '02.
17	Q. Did I read it accurately?	17	(Marked Exhibit 10; Lowe's Strategic
18	A. Yes, sir.	18	Training & Achievement Review/Career
19	 Q. And you did not disagree with that 	19	Development Review dated January 30,
20	assessment; correct?	20	2002)
21	A. Correct.	21	Q. Do you recognize Exhibit No. 10?
22	Q. You thought that was a fair	22	A. Yes, sir.
23	assessment?	23	Q. And is that your signature at the
24	A. Yes.	24	lower left-hand portion of that document?
		 	
1	Page 103		Page 105
1	Q. You had missed some time from work?	1	A. Yes, it is sir.
2	 I had time to use, you know. 	2	 Q. Now, as of January '02, according to
3	 Q. And you missed time because both you 	3	your earlier testimony in this deposition today,
4	had some car problems with an old van that you were	4	people had been for some time, for several months at
5	driving and because you had asthma; correct?	5	that point, leaving return merchandise and appliances
6	A. Yes, sir.	6	and the like in front of your door to your work area,
7	Q. And, in fact, Mr. Estes was fairly	7	which was called the cage; is that correct?
8	understanding about that, wasn't he?	8	A. Yes.
9	A. Sure, he was fair.	9	 Q. You did not make note of that in your
10	Q. And you generally found him to be fair	10	employee comment section of this document, did you?
11	in the way he dealt with you, didn't you?	11	 A. What training oh, employee
12	A. Yes, he hired me.	12	comments. Major concerns are appliances, tools, and
13	Q. And he was a pretty well, to use a	13	other items needs to be marked with what's wrong with
14	common term, he was a pretty laid back, easy-going	14	it, plus receipts of purchases, that helps the return
15	guy, wasn't he?	15	process turnover.
16	A. Real big guy.	16	Q. My question is, in the employee
~~	* - · · · · · · · · · · · · · · · · · ·	17	comment section of this review, you did not make any
17	Q. And laid back?		
1	Q. And laid back? A. Yes.	18	note or comment regarding
17		18 19	note or comment regarding A. No, I did not, sir.
17 18	A. Yes.		
17 18 19 20	A. Yes. Q. People liked him? A. I guess so, yes.	19	A. No, I did not, sir.
17 18 19	A. Yes. Q. People liked him? A. I guess so, yes.	19 20	A. No, I did not, sir.Q return items being placed in front
17 18 19 20 21	A. Yes. Q. People liked him? A. I guess so, yes. Q. Nice guy?	19 20 21	 A. No, I did not, sir. Q return items being placed in front of the door leading to the cage area; correct?
17 18 19 20 21 22	A. Yes. Q. People liked him? A. I guess so, yes. Q. Nice guy? A. Yeah.	19 20 21 22	 A. No, I did not, sir. Q return items being placed in front of the door leading to the cage area; correct? A. All I wrote here

Page 108 Page 106 that time. You did talk about the return process 1 1 and your major concern being that appliances, tools, 2 That was the reason you were missing 2 work, because of your asthma? 3 and other items be properly marked with what's wrong 3 4 A. Yes. 4 with them? 5 Q. And that was the only reason; correct? 5 A. Right. Q. That was the only concern that you 6 A. Yes. 6 7 MR. CASEY: I want to now have marked 7 expressed? 8 as Exhibit No. 11 a one-page employee performance 8 A. Exactly. report dated January 20, 2002. 9 9 Q. In this review, as opposed to the 10 (Marked Exhibit 11; Lowe's Employee review that you received some five months earlier, 10 Performance Report dated January 20, you received four "does not meet standard" 11 11 2002) 12 indications out of the twelve performance criteria, 12 Q. Do you recognize Exhibit No. 11? whereas in the first review you received all "meets 13 13 14 A. Yes, sir. standard" scores; is that correct? 14 A. Correct, sir. 15 Q. And is it, in fact, true that on or 15 16 about January 20th of 2002, some two weeks after you Q. And you did not complain about that; 16 you thought it was fair that Bob Estes registered a received your performance review which has been 17 17 score of "does not meet standard" on four out of the 18 marked as Exhibit No. 10, Mr. Estes and Mr. Vaughn 18 19 sat down with you to talk about the condition of the twelve criteria; correct? 19 RTM cage and to tell you that you needed to do a 20 A. Correct. 20 better job with it? MR. FEDERICO: I'll object to the 21 21 22 A. Yes, sir. 22 form. Q. Your answer was correct? 23 MR. FEDERICO: Excuse me, if I can 23 object to the form that Exhibit 10 is dated after 24 A. Correct, sir, but that's like when Page 107 Page 109 this -- if I can, if I can speak. Exhibit 11. You indicated the opposite. Exhibit 11 1 Q. You can when your lawyer asks you 2 is dated before Exhibit 10. 2 questions, if he'd like to. 3 MR. CASEY: Well, I guess it is in 3 4 terms of its signature. That's a fair statement. 4 A. Okav. 5 MR. FEDERICO: Well, it is in terms of 5 At this time, in January of '02, the signature of the supervisor. Mr. Estes wrote, "David has the knowledge and can 6 6 certainly perform this job. I think that his 7 MR. CASEY: Fair statement. My 7 constant time away from work is directly affecting 8 apologies, I was wrong about that. I was looking at 8 the productivity. He also needs to be more organized 9 the date in the upper right-hand corner of 9 especially with all the reports and OFR log." Do you Exhibit 10, which is January 6 of '02. 10 10 see that he writes that, have I accurately read it? 11 MR. FEDERICO: Right. 11 12 Q. And you did not disagree with this 12 A. Yes, sir. 13 And you did not indicate on this 13 performance initial warning, did you? 14 document or otherwise that you disagreed with that, 14 A. I did not, no, I didn't. 15 MR. CASEY: I want to have marked as 15 did you? A. No, I didn't write that on this Exhibit No. 12 a document dated April 1, 2002 16 16 17 17 concerning Mr. Dean's performance. document. 18 Q. In fact, you did agree with that 18 (Marked Exhibit 12; Lowe's Employee assessment, didn't you? 19 Performance Report dated April 1, 19 20 A. Kind of. 20 21 O. You had missed a fair amount of work 21 Q. Do you recognize Exhibit No. 12, 22 time in December of 2001; correct? 22 Mr. Dean?

This was a second written warning for

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Α.

Yes, sir.

A. I can't quite remember how much I

missed, but I think I said my asthma was acting up at

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poor job performance that Mr. Vaughn and Mr. Estes 1 provided to you and discussed with you on or about 2 April 1 of 2002; correct? 3

A. Correct.

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- And you signed acknowledging receipt of this in the lower right-hand corner; correct?
 - A. Yes, sir.
- Q. And you had an opportunity to write in employee comments and you did not; correct?
- A. I was told to read this here, which I 10 did, and sign it. 11
 - Q. Well, you also saw that there was a section provided for employee comments; correct?
 - A. Correct.
 - Q. And that section is provided in all the performance review templates that Lowe's uses or at least that you saw; correct?
 - A. Yes.
- 19 Q. And you knew because you had provided employee comments with respect to prior performance 20 documents that you had the right to insert comments 21 22 if you wished to do so; correct?
- 23 A. Correct.
- 24 Q. And you did not make any comments on

MR. FEDERICO: I'll object; same objection, he can't fairly be asked to speculate about Mr. Ramos.

Page 112

4 Q. Do you have any reason to believe that 5 anybody affiliated with Lowe's reported falsely regarding the status of your work site and/or 6 7 regarding the quality of your work as they reviewed 8 it in an inventory in March of '02?

MR. FEDERICO: Same objection; it just 10 simply calls for speculation which wouldn't be useful testimony. 11

MR. CASEY: I don't know. You may answer.

- A. All I know is on this one particular time when we did this inventory, all the stuff that was outside of my door, when I came in that morning I couldn't even get in the office because they took all the stuff from outside and put it inside my office.
- Q. You didn't write that down in the employee comment section in this document, did you?
- 21 No, I didn't.
- 22 The document reads, "Just recently we 23 had inventory, and Andy Ramos was conducting some reviews for operations. When Andy went to view the 24

Page 111

this document?

- A. No, I didn't.
- Q. Nor did you ever complain to anybody at Lowe's about this second written warning, did you?
 - Α. No, sir.
- Q. Do you know who Andy Ramos was?
 - A.
- You do not challenge the fact that Andy Ramos was in the Danvers Lowe's facility conducting a review of operations in or about --
 - A. Inventory.
 - -- March of 2002, do you?

MR. FEDERICO: I'll object; if he

doesn't know who he is, how can he observe that he 14 15 was there.

- Do you know from time to time that people from outside the particular Danvers store came to that store on behalf of Lowe's and performed various inventory reviews?
 - A. Yes, sir.
- Do you have any reason to believe that 22 Andy Ramos was not truthful in telling Mr. Vaughn and Mr. Estes that he found your work area to be poorly managed?

Page 113 RTM cleared report to see it was work[ed] properly,

- 2 he found that it was not worked at all. Dave had
- 3 been instructed and shown how to print this on
- 4 several occasions, both by myself and Steve Vaughn.
- 5 To this day the report is still not printed or
- 6 worked." Close quote. Have I read that accurately?
 - A. Yes, sir.
- 8 Q. And you read that on April 1 of 2002 9 before you signed this document; correct? 10
 - A. Correct.
- 11 Q. And you did not take issue with or 12 challenge the accuracy of that statement, did you?
 - A. No, sir.
- 14 And you agree with it as you sit here Q. 15 today, don't you?
- A. Yes, but they were informed, Bob Estes and Steve Vaughn was informed. That's why when you said something about another name, Steve, I thought 19 that was his name, but this now is real clear to me. 20 Steve Vaughn had it -- where I was, my job
- 21 responsibility, became too overwhelming; I had too
- 22 much stuff to do. Between sorting out all the stuff
- 23 that was there and printing out the reports, that
- 24 took a long time. What was more important to them

		,	
	Page 114		Page 116
1	was clean this up, get this straightened up. That	1	that he was a racist?
2	took a majority of my time.	2	 A. I guess I might have seen something.
3	Q. And you didn't print the reports?	3	I don't know.
4	 A. As to their satisfaction. 	4	Q. I'm not asking you to speculate. This
5	Q. Or at all; correct?	5	is a serious question.
6	 A. I did print them. That's what they 	6	A. I don't know. I can't answer that. I
7	wrote down. That's why I gave them no arguments	7	don't know. I don't know.
8	because I knew my time was going to be short there	8	Q. Did anybody affiliated with Lowe's
9	because of the way they kept coming with these	9	ever do or say anything to you or in your presence
10	reports.	10	that you thought reflected they were a racist?
11	 Q. You knew that you were supposed to 	11	MR. FEDERICO: I'll just object to the
12	print RTM cleared reports and you were not doing it	12	term "racist." I don't think it would elicit
13	to their satisfaction; correct?	13	favorable or unfavorable testimony since the claim is
14	A. Correct.	14	racial discrimination. We're not claiming the people
15	MR. CASEY: I'd like to have marked as	15	were racists. I think that term just requesting
16	Exhibit No. 13 a one-page employee performance report	16	that the question be reformed.
17	concerning Mr. Dean also dated April 1 of 2002.	17	Q. You can answer the question. Did
18	(Marked Exhibit 13; Lowe's Employee	18	anyone affiliated with Lowe's ever do or say anything
19	Performance Report dated April 1,	19	to you that reflected that they had any animosity
20	2002)	20	toward you because you were a black man?
21	Q. Do you recognize Exhibit 13?	21	A. I felt that.
22	A. Yes, sir.	22	Q. Who did what that made you feel that
23	 Q. Is that your signature toward the 	23	way? Be precise, who? First give me the name.
24	bottom of the page?	24	A. Oh, see, that's where they were
	Page 115		Page 117
1	A. Yes, it is.	1	unfair to me; Steve Vaughn was unfair to me and Bob
_	A if the course that the well-well-way constitutes	١ -	Estas was unfair to ma

Q. And this was the third written warning that you had received in the course of four months

and it also followed a performance review in which four out of twelve criteria were identified as your

6 not meeting standard; correct? 7

A. Correct.

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Ο. This was a final written warning, meaning that you could be terminated if there was any further problem with your work; correct?

> Correct. A.

12 And you did not challenge the accuracy or the fairness of this final written notice, did 13 14 vou?

A. Never.

In fact, when you were given a final written warning regarding the RTM area being in an "atrocious" state, you agree that it would be better for you to move to the lawn and garden center so that you could have an opportunity still to succeed with

21 Lowe's; correct? 22

A. Correct.

23 Q. Did Mr. Estes ever say or do anything

to you or in your presence that in any way reflected

Page 117 me and Bob Estes was unfair to me. 2

Q. When?

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A. Through my whole ordeal there. After I was hired and after they see me doing a good job and they see how I behave myself, other people, I notice a change in their attitude toward me, and I knew it was a matter of time before they were in cahoots to get me moved out of that warehouse.

Q. You're saying that Bob Estes and the people who work with you --

A. Bob Estes hired me.

Q. Here's a guy who hires you; after he sees you're doing a good job, he wants to get rid of you?

Mm-hmm, because I also heard the lady who replaced me as the RTM clerk, it was told to me by Kris Lovett that she told Bob, I want his job, and that was when I was moved out.

20 Q. Well, what, if anything, did Mr. Estes 21 ever do or say that suggested that he moved you out of that job or treated you improperly in any fashion 22 23 because of your race?

A. Nothing.

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24	Q. What, if anything, did Mr. Vaughn ever say or do that led you to suspect that he mistreated you in any respect because of your race? A. Nothing. Q. So do I understand your testimony to be you thought these guys didn't like you and they liked somebody else more? A. (Witness nods head). Q. Is that correct? A. Yes. Q. And it had nothing to do with your race; is that correct? MR. FEDERICO: I'll object to the form. A. Correct. MR. CASEY: That's all I have. MR. FEDERICO: I have no questions. MR. CASEY: Thank you, Mr. Dean. THE WITNESS: Thank you, sir. (Whereupon, the deposition was concluded at 1:51 p.m.)	1 COMMONWEALTH OF MASSACHUSETTS)	ge 120
1 2 3 4 5 6 7 8	Page 119 I have read the foregoing transcript and the same contains a true and accurate recording of my answers given to the questions therein set forth. DAVID H. DEAN		
9 10 11 12 13 14 15 16 17 18	On thisday of, 2005, before me, the undersigned notary public, personally appeared David H. Dean, proved to me through satisfactory evidence of identification, which were, to be the person whose name is signed on the preceding or attached document, and who swore or affirmed to me that the contents of the document are truthful and accurate to the best of his knowledge.		の の の の の できます かいまま かいまま かいまま かいまま かいまま かいまま かいまま かい
19 20 21 22 23 24	NOTARY PUBLIC		The transfer of the planes was appropriate to the control of the planes.

LOWE'S

LOWE'S INCIDENT REPORT (Please Print)



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DANINY PUCCIO	1077	11-1-01	
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			ccio immediately
told me that he did it	to talk to his		
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when he was asked if			
that he did. He state	d that David	also asked i	f he could make
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his was very buch bear	use he consid	ered Dan t	o be his friend
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did not want things	4 His Datile	to marphen	at unck. I
Completely anced with	MIN TO NO 11	asked him	n has he had so
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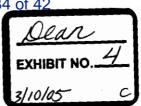
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Revised: 10/26/94

Document 13-2 Filed 06/06/2005 Page 34 of 42 LOWE'S

LOWE'S INCIDENT REPORT (Please Print)



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PAGE 1 OF

Revised: 10/26/94

LOWE'S

LOWE'S INCIDENT REPORT (Please Print)

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LIST WORK HISTORY BEGINNING WITH THE CURRENT OR MOST	RECENT EMPLOYERS AND MILITARY SERVICE	EMPLO	OYMENT DA	TES
Company Name 1/8/1 Boston 978-774-1800	What type of work do you do? Temp	€ram	Month Y	20
Address 85 CONSTITUSTION LANE	Name and title of your supervisor?	Ta	Month Y	seat
City Day State MA Zip	Reason for leaving? PRESENT	Pay Rate	10.	hr
Company Name 1-10 My 10 1007 978 - 741-929	What type of work did you do? RTV C/EKI	From	3 0	0
Address 5 TRADENS WAY	Name and title of your supervisor? Site REI	To	Month Y	0
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City LINN State MA Zip 01902	Reason for leaving? ASSIGNMENT ENDED	Pay Rate		
State reason and length of any inactivity between employers.				
May we contact your present employer for a work reference? Yes Yes No II Hyes, when?	To assist us in verifying your prior employment, have you ever worked ☐ Yes ☐ No It yes, list name	d under anot	her name?]

Availability

What type of employment are you seeking?	Day	Earliest Time	Latest Time
(Check each classification you are willing to work.)	Sun.	/1770	MNCONS / PlosiNG
☑ Full-Time ☐ Part-Time ☐ Seasonal	Mon.	11/1	DAY
Length of employment desired:	Tue.	,,,,	
Over a year Less than a year	Wed.	11	•
Summer/Seasonal - From to	Thu.	. 1/	
How soon can you start working for Lowe's?	Fri.	L.t	
Number of hours you would prefer to work each week 48	Sat.	:1	
Maximum number of hours you can work each week We hire people to work during hours we're closed to the public as well as times we are open for business. To help us consider you for a job that matches your availability, please tell us the earliest time and the	consideration		listed will be taken into ocess. If you have any con-
latest time you can work each day by completing the chart on the right.			Dear
lmnortant			EXHIBIT NO.

APPLICANT'S AGREEMENT AND CERTIFICATION. READ BEFORE SIGNING.

I hereby certify that the facts set forth in the above employment application are true and complete to the best of my knowledge. I understand that, if employed, falsified statements on this application may result in disciplinary action up to and including termination.

I hereby authorize all of my present and former employers, school authorities and persons listed as personal references to furnish Lowe's, or any agent acting on its behalf, information concerning my personal character, work habits and employment record (such as a statement of the reasons for the termination or separation of my employment), work performance, abilities, and other qualities pertinent to my qualifications for employment. I hereby release all such persons and Lowe's and their respective officers, directors, employees, or agents, in both their individual and representative capacities, from any and all liability for damages of whatever nature arising from furnishing or receiving the requested information.

Lowe's is hereby authorized to make any investigation of my personal history and financial and credit record through any investigative or credit agencies or bureaus of Lowe's choice, at anytime during the course of my employment with Lowe's. I also understand that, upon written request, I will be informed if a consumer credit report was requested, and if such a report was requested, I will be told the name and address of the agency furnishing the report.

I understand that I may be required to undergo screenings for substance abuse (drugs) as a condition of my employment.

I also understand that all employment with Lowe's Companies, inc. and its Subsidiaries, Lowe's Home Centers, Inc. and the Contractor Yard, Inc. or any affiliate thereof is 'at will' and may be terminated by Lowe's or by me at any time and for any reason or no reason at all with or without notice.

Lowe's is an equal opportunity employer. Our policy is to consider all applicants for employment based on their qualifications and our current job vacancies. Applicants are considered without regard to race, color, religion, sex, national origin, age, disability, or marital status or any other category that may be protected under applicable law.

MY SIGNATURE IS EVIDENCE THAT I HAVE READ AND AGREE WITH THE ABOVE STATEMENTS.

HIRING PROCESS

NOTE: An objection does not necessarily disqualify an applicant from consideration.

Would you be willing to:

excellence begins with hiring the most qualified candidate. help you make an informed decision to apply. Before you We want to provide you with information about Lowe's to Please acknowledge your understanding by signing your statement of basic standards and requirements. If you feel that you can comply, we welcome your application. begin the formal application process, please read this Thank you for interest in Lowe's. Our commitment to name on the line provided below.

SUBSTANCE ABUSE — Lowe's provides a

controlled substance. A confirmed positive drug test will substance-free workplace. All candidates will undergo urinalysis and/or hair testing to determine any level of result in disqualification or termination.

Department of Motor Vehicles, criminal Courts, state and information or failure to provide information can result in BACKGROUND CHECKS — Lowe's will conduct county repositories of criminal records, credit bureaus, disqualification, or termination if discovered after hire. an extensive background check which may include and employer mutual associations. Falsification of verification with the Social Security Administration,

EMPLOYMENT INTERVIEWS — Several interviews the best candidate and to provide more detailed information may be conducted with you in order to determine if you are regarding your work history and qualifications. SURVEYS — Various surveys may be administered to determine your attitude and aptitude in job-related areas. PHYSICAL EXAMINATION — Some positions in

the company require a physical examination.

knowledgeable and friendly assistance whenever needed, CUSTOMER SATISFACTION — All of Lowe's Employee Owners commit to provide our customers regardless of where each job is performed.

I have read and understand the employee selection

procese utilized by Lowe's.

Applicant's SIGNATURE

DATE

Falsification or omission of information will lead to termination. application. Be complete and accurate in your responses. NOTE: We intend to fully verify all information on your

Work overtime when needed?	RATE YOURSELF Circle the number that best describes vou
Work holidays (not including Thanksgiving and Christmas)?	
Work a schedule that changes from veek?	FRIENDLINESS: 1 2 3 4 5 5:1
Interrupt your break to help a customer? (YES) NO	HELPFULNESS: 1 2 3 4 (5 12)
Be at work on time every time?	WORK ETHIC: 1 2 3 4 5 SIW-50
Report to work and remain free from being very under the influence of drugs or alcohol?	
Wear safety equipment required for your job?	TEAM DI AVED: 1 2 2 4 5
Work in an environment that may sometimes be hot or cold, dusty and noisy?	
Please explain objections you may have to any of the conditions noted above, such as the desire for a part-time schedule.	
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Lowe's Strategic Tra g & Achievement Review er Development Review (STAR/CDR)

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♦This section should be completed by employee only when employee meets or exceeds all standards.						
Career Development Review		o you know how to apply fo				
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best matches now you ree!						
about your work at Lowe's						
What are your career goals?* Hav	e they changed sin	ce you started at Low	e's?" How?"	Why?"		
What training do you pond to be m	ore successful in ve	ur current ich2t A ici	a veri went in	the future 2*		
What training do you need to be m		΄ λ	o Aon Maur III	. <i>L</i> .		
SUS-trauma so	I can be	more und	erstand	ing to		
this procedure.						
Employee Comments:*	. 0 .	0. 1.		· 4 ()		
Being Treated of	auly us a	lright, bein	a akk	recented		
is good Being	ia 1-comp	ensated 10	7 0 1	- Ll		
such as RTM-	is horseled	ly arion	4 2 4 2	00.80		
, (11.	Shame I			
		ton all it	better			
Store Manager Signature	Date	Store Manager Name (Printed	1)			
				() = -		
Supervisor Signature	/Date	Supervisor Name (Printed)	7/	Dear		
Supervisor Signature	8/04/01	Supervisor Name (Printed)	les			
Supervisor Signature /	8/04/01	Kohert Cs	Les	Dear EXHIBIT NO. 9		
Employee Signature	8/04/01	Supervisor Name (Printed) O PET Month/Year of Next Planned F	FES Review			

Lowe's Strategic Traing & Achievement Review areer Development Review (STAR/CDR)

Last Name First	Middle	STAR Effective Date
Dogo Dawy		1-6-02
Job Title	Reason for Review	1
RTM Cherk	☐ Merit ☐ Pro	motion Q Other Hugh
STAR Standards (see back) Exceeds St	andard Meets Standard	Does Not Meet Standard
01 Customer Service	~	
02 Merchandising	<u>Q</u>	<u> </u>
03 Computer Operation	<u> 28</u>	
04 Product Knowledge		
05 Loss Prevention & Safety	8	No.
06 Attendance/Punctuality 07 Organization	H	
08 Report/Record Keeping	ă	(A)
09 Initiative, Teamwork & Reliability		
10 Job Knowledge		
11 Training	€	
12 Job Performance		
Supervisor Comments* (please include explanation for		ble):
David has the Knowledge	and Con Certan	i presorm this
Job, I think that his (constant time ourself	Lion uxxx
	oroductivity - He al	a needs to be
	1 10 /101	and OFR los.
More organized Especially	Wall the report	Review Date
Training Completed Since Last Review: Description a	no pate / Last P	Review Date
Training Goals For Next Review: Description & Date f	or Completion*	
The needs to Cross-Thin		_
- 2100 10023 to 1803 4 4VA	y file congre	
	1-6-03	
♦ This section should be completed by employed		
Career Development Review	Do you know how to apply for other jo th the job I have at Lowe's and have little i	
Please check the box that	i job I have, but would like another job at r	
best matches now you reel am very interested in	n exploring the training required for a pron	
	my job and want to talk about other oppo	
What are your career goals?* Have they change	d since you started at Lowe's?* H	low?* Why?*
What training do you need to be more successful	in your current job?* A job you w	ant in the future?*
/ - / // // // //	is with muchitie	
Type years man years	0/11 - stm 11	-7
mine lime will be an	acy in 17111 for	occurs.
Employee Comments:*		
Mayor concerns are ap	plicingtes tools and	ather stems
MEERLA TO be marked in	the what surong i	uthet
plus sereupes of purch	also, that helps	I the return
profes tunbues.		
Store Manager Signature Date	Store Manager Name (Printed)	
		Dean
Supervisor Signature Date	Supervisor Name (Printed)	10
16/1// 1-21-0	2 Robert & gh	EXHIBIT NO. 10
Imployee Signature Date	Month/Year of Next Planned Review	2/12/1
Daniel Den 1/30/0.		3/10/05 c

90099 (Rev. 4/00)

*Please check if additional comments on back

L 0012

EMPLOYEE PERFORMANCE REPORT

Print Employee's Name		Location #	Department	Date	
Dean Dean		1094	KTM	1-20-02	
Check Type of Notice:	Check Reason for E	mployee Perfo	rmance Repor	:	
DINITIAL COMMENDATION FOR GOOD JOB PERFORMANCE OF FINAL NOTICE POOR JOB PERFORMANCE OTHER					
Describe the conduct/performance (who, what, when, why, where and how). Tooked I had to Sit down and have a discussion with					
Drued on the Condi		\sim \sim	Colle. C	In Several	
oversions I've had	to personally	work	Duernight	to help	
Clean up his over g.	I told Win	n I a	Ent Mis Dave 1	nd helping	
and Saus that his	efforts u	Vill Incre	ease to	Ensure	
	Well Kept.	:			
Follow UP to one	aniad/			•	
Follow up to orgains -					
List previous performance reports with	hin the last 12 month	ns:	· · · · · · · · · · · · · · · · · · ·		
Date DINITIAL WRITTEN DIFINAL NOTICE Reason					
Date INITIAL WRITTEN	Date INITIAL WRITTEN FINAL NOTICE Reason				
Date DINITIAL WRITTEN DINAL NOTICE Reason					
Employee Comments:	· · · · · · · · · · · · · · · · · · ·				
Employee Signature does not mean the employer agrees with the content of this report, it only verifie that discussion about this report occurred.			Da	ite	
Print Supervisor's Name Steve A Vanchas	Supervisor's Signature	11-	Da	/20/07	
Print Manager's Name Kobert Sates	Manager's Signature		Da	1-20-00	

This report does not modify the Contract of Employment, which is terminable at the will of either party, with o without cause, at any time, and for any reason.

Retain a copy in the employee's personnel file. Provide the employee a copy of the initial, written or final notice report. 90776 POD

Lowe's **EMPLOYEE PERFORMANCE REPORT**

Dear	
EXHIBIT NO.	12
3/19/05-	c

Print Employee's Name		Location #	Department	Date			
Dave Dean		1094	KTPI	4-01-02			
Check Type of Notice:	Check Reason for E	mployee Perfo	rmance Report				
☐ INITIAL DEWRITTEN ☐ FINAL NOTICE ☐ TERMINATION	☐ COMMENDATION FOR GOOD JOB PERFORMANCE ☐ VIOLATION OF COMPANY POLICIES ☐ POOR JOB PERFORMANCE ☐ OTHER						
Describe the conduct/performance (who, what, when, why, where and how), Just recently we had inventory, and Andy Ramo's							
	u Cleared hat is was	report report	1. 1	When the district of this on			
Several occations, both by myself and Steer bughere to							
this day the report is still not printed or workers							
What is expected in the future? Include follow-up dates.							
Dave to expected to print the regards pertinent to his functions							
follow is organil and							
Will be delt with by displaced action up to and in cluding terminate							
List previous performance reports within the last 12 months:							
Date /-20-02 A INITIAL - WRITTEN - FINAL NOTICE Reason							
Date							
Date INITIAL I WRITTEN I FINAL NOTICE Reason							
Employee Comments:							
	·						
	•	•					
Employee Signature does not mean the employee agrees with the content of this report, it only verifies that discussion about this report occurred.	(''	Z	Da t	11102			
Print Supervisor's Name	Supervisor's Signature	1/8	Da				
Steve A VanahaTr	76 7	119//	7. 19	11102			
Print Manager's Name	Manager's Signature		Dai	4/1/02			
	are commended			1			

This report does not modify the Contract of Employment, which is terminable at the will of either party, with or without cause, at any time, and for any reason.

EMPLOYEE PERFORMANCE REPORT

Print Employee's Name		Location #	Department	Date
Dave Dean		1094	KTPL	9-01-00
Check Type of Notice:	Check Reason for E	mployee Perfo	rmance Report	•
☐ INITIAL ☐ WRITTEN Æ FINAL NOTICE ☐ TERMINATION	U VIOLAT	TION OF COM JOB PERFOR	PANY POLICIE	PERFORMANCE S
Describe the conduct/performance (w	ho, what, when, wh	y, where and	how).	, ,
	Came in to			o be become
a fully Nar Sight. The K	27M over u	usatroci	ous the	Herrs that
	were Still on			and out.
The appeares that have				
(1)	-			
	andy unorga	<i>f</i> · <i>I</i>	s uell as	
				belive the RTM
What is expected in the future? Include	le follow-up dates.	beilton is	the bes	t tit for Do
Dove will be moved out	of Rim's	and place	ed in a	distrent
position that will allow				
decline - Follow-up 3 organize				
List previous performance reports with	in the last 12 month	is: with by	diciplinary a	ction up to and i
Date DINITIAL DWRITTEN DF		terminal 180	1. 1	
			600	encl.
Date 4-01-02 INITIAL XWRITTEN F	INAL NOTICE Reason	w. Jol	DECTORM	one.
Date DINITIAL DWRITTEN DF	INAL NOTICE Reason			
Employee Comments:				
		-		
			-	
Employee Signature does not mean the employee agrees with the content of this report, it only verifies that discussion about this report occurred.	Employee's Signature	\84.	Dai L	11102
Print Supervisor's Name	Supervisor's Signature	//	Da	7/1
Steve A Vangha Jr =	A The	4/12	4	/1102
Print Manager's Name Kobor + 58+68	Manager's Signature		Dat	1-1-02
	/			

This report does not modify the Contract of Employment, which is terminable at the will of either party, with or without cause, at any time, and for any reason.